

ISSUES OF CONCERN TO SOUTHERN CALIFORNIA TRIBES

HEARING BEFORE THE SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE ONE HUNDRED FIRST CONGRESS FIRST SESSION ON OVERSIGHT HEARING TO DISCUSS ISSUES OF CONCERN TO SOUTHERN CALIFORNIA TRIBES

APRIL 27, 1989
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ISSUES OF CONCERN TO SOUTHERN CALIFORNIA INDIAN TRIBES

THURSDAY, APRIL 27, 1989

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Escondido, CA

The committee met, pursuant to notice, at 1:25 p.m., at City Hall, 201 North Broadway, Escondido, CA, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senator Inouye.

STATEMENT OF HON. DANIEL K. INOUE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. This is a hearing of the Select Committee on Indian Affairs of the U.S. Senate, to discuss issues which are of concern to Indian tribes in Southern California.

Our legal and moral obligation in the American west is abundantly clear. I have been chairman of this committee now for 27 months and during that time I have learned several things—no matter how well intentioned we are, we in Washington are not in the best position to come forth with solutions to your problems. I believe that solutions made in Indian country may be the best for Indians and that is why I am here. I am here to learn and I am here to assist. We have our work cut out for us. If you do not believe that, one has just to look around your neighborhood and you will soon realize that most Americans do not believe in the existence of American Indians. They think that Indians are people of the past.

The history of Indians in the United States is not a pretty chapter. Indians, 200 years ago, were considered very important to our country—they helped to fight our wars, they helped to feed us. We recognize their sovereignty in our Constitution and in our laws. However, as time passed Indians became unnecessary to the well-being of this country, so our leaders felt. We entered into 800 treaties with Native American leaders and I am sorry to say that my predecessors in the U.S. Senate refused to consider 430 of them—we just filed them away—and several of these treaties affected the Native Americans of California. Of the 370 we ratified, with the passage of time, we violated provisions in every one of them. That is the record of the U.S. Government as it relates to American Indians. As a result, whereas Indians had title to and sovereignty over 550 million acres of land 200 years ago, today they are left with 50 million. Whereas anthropologists suggest to us that in

these United States there were at least 10 million Indians residing 200 years ago, today we find less than 2 million. It is not a happy chapter. Much work has to be done. Even the President of the United States, on May 31 of last year at a meeting on the campus of Moscow University, when asked about Indians, responded that "maybe we should not have humored them. Maybe we should have told them to leave their primitive way of life, to come and join us." It is sad but most Americans are really not aware of Indians, of the contributions that Indians have made, not only in the history of the United States but in all of our wars, more Indians have put on the uniform than any other ethnic group in this Nation. They are citizens of this country while at the same time sovereign.

There are a few pages of history that we should know before we proceed. The Constitution of the United States just celebrated its 200th anniversary. If all of us were curious enough we would have asked the question, where did our founding fathers get this concept of the separation of powers? If you read the writings of Washington, of Jefferson, and of Franklin, you will get the answer. They had much to do and had many discussions with leaders of the Confederacy of Iroquois Nations and they fashioned our democracy after the government structure of the Iroquois Nation. For hundreds of years, The Iroquois elected their executive, they elected representatives from each Nation to form a Confederacy in a Congress, and they had a separate judiciary branch. They were advanced. Women voted hundreds of years ago. In fact, they had one thing that we in the United States are not quite ready to embrace—women selected their principal chief. They felt that if men did the selecting, they would very likely select only warriors. Women selected the chief and the chief was one who was concerned about children, education, food, shelter, in addition to warfare. The Indians have contributed much to us and it is about time we recognize this. So, we shall begin our hearings.

I am sorry to advise you that because of a plane schedule, I must leave this building no later than 4:30 this afternoon. I will have to proceed to Sacramento and there we will meet with your brothers and sisters from northern California. So, I am asking all of you to be concerned about other witnesses and to discipline yourself and try to limit your remarks to 5 minutes. If you have longer statements to submit, you may be assured that I, personally, will read every statement that you submit.

So, with that, the first witness will be an attorney representing the Riverside San Bernardino County Indian Health Program, Ms. Barbara Karshmer.

STATEMENT OF BARBARA E. KARSHMER, ATTORNEY REPRESENTING RIVERSIDE SAN BERNARDINO COUNTY INDIAN HEALTH PROGRAM, BANNING, CA; INDIAN HEALTH COUNCIL, PAUMA VALLEY, CA; AND SOUTHERN INDIAN HEALTH COUNCIL, ALPINE, CA

Ms. KARSHMER. Thank you, Mr. Chairman.

I am here today not only on behalf of Riverside San Bernardino County Indian Health, but also on behalf of Indian Health Council, which you visited this morning, and on behalf of Southern Indian

Health Council, which serves the reservations in the Southern part of San Diego County.

You've recounted well the history of Indians in California and elsewhere, so I won't attempt to reiterate any of that except to note that the policy swings that have affected California Indians have been perhaps harsher here than for Indians elsewhere in the country. Our Government, as you're well aware, has swung back and forth from the policy extremes of strengthening Indian tribes to the attempt to terminate Indians.

In California, in the early 1950s, the attempts to terminate Indians prevailed and Congress began enacting termination legislation, which was intended to end reservation status and to take away the special status of Indians. As a result of that legislation, the services that the Federal Government provided for Indians were largely withdrawn from the State. A number of the reservations were terminated, though not here in Southern California, although all the services were virtually withdrawn, especially the health services.

In addition, California was given a limited measure of civil and full criminal jurisdiction over the reservations. It is this that you have also heard about today which has caused problems in regard to law enforcement on the reservations.

As a result of the termination era and the withdrawal of services, the Indians in California had no health services whatsoever for many years. In the early 1970s they themselves started up seed programs on their own reservations to attempt to provide health care for their own members because the Federal Government was providing none and the State was not coming in and filling the gap. Eventually the Rincon Band of Mission Indians sued the Indian Health Service in Federal Court on behalf of all the Indians of California and prevailed. The Court said that the Indians of California were entitled to be provided and required to be provided the same level of health care as Indians elsewhere in the country. As a result of this, we, the representatives of the Indians in Southern California, went to Congress, as did Indians from all over the State, to attempt to obtain funding to implement this decision. Though there has been some funding and funding has increased through the years, funding to California Indians remains at the lowest level of any area within the country. IHS' own statistics show that the level of need here in California is greater than that anywhere.

Another area that is of great concern is the fact that there is no IHS money for facility construction and most of the facilities are very desperately overcrowded and in need of expansion, even those fine facilities such as the one you saw this morning at Indian Health Council. It's very difficult to delivery quality care from a facility where you do not have room to turn around. So the programs which I represent would urge that something be done by Congress in terms of addressing the needs for facilities for tribally-operated programs. At this point, the Indian Health Service priority list makes a distinction between IHS' own facilities and tribally-operated facilities and makes it nearly impossible for tribally-operated facilities to obtain construction funds. So, that's something that certainly we'd like to have addressed by this committee, as well as the general issues of under-funding.

Not only is there under-funding in ~~regard~~ to health care, but there is under-funding for all BIA and Federal services for California Indians. This gets to be a real problem when we're talking about the Public Law 93-638 contract process. I met yesterday with a number of tribes and discussed Public Law 93-638 and its effect on small tribes. I think you'll hear today at some length from other witnesses about the problem created when you have such a small pool of money. To attempt to have small tribes take service delivery over with their small numbers makes it nearly impossible to realize true self-determination.

Thank you for the time to appear, Mr. Chairman. There is lengthy written testimony which has been submitted to your committee by my client and we shall appreciate your consideration of the issues addressed therein.

[Prepared statement of Ms. Karshmer appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Karshmer.

For those who may not be aware of Indian health problems, let it suffice for me to tell you that the statistics are the worst in the Nation. For example, throughout this land diabetes among Indians is about 3 times the national norm; respiratory diseases are about 3 times the national norm; alcoholism is about 10 times the national norm, in other areas as high as 20 times; suicide among young people would go up as high as 20 times the national average and in some areas as low as 3 times. This is just an example of the problems that Indian people face. So, we are well aware of what we have ahead of us, but I am also sorry to tell you that whenever we have a budgetary problem and Congress cries out for cutting the budget, they always look at the Indian budget first. I can assure you, in the last 2 years that has changed. We have been successful in stopping that. But even in this administration, attempts are being made—for example, yesterday I learned that an Indian health clinic in Tulsa, OK, which serves 17,000 Native Americans, was given directives to close its operation in 90 days. You begin to wonder where those 17,000 Indian patients are going to go.

Our next witness is the Director of the San Diego Indian Health Center of San Diego, Mr. Ralph Forquera.

**STATEMENT OF RALPH FORQUERA, DIRECTOR, SAN DIEGO
AMERICAN INDIAN HEALTH CENTER, SAN DIEGO, CA**

Mr. FORQUERA. Thank you, Senator Inouye. Welcome to San Diego County.

My name is Ralph Forquera. I am the executive director for the San Diego American Indian Health Center. It is fitting that I follow Barbara in presentation because I represent the urban section of the Indian health delivery system here in San Diego County. In hearing what Barbara had to say in terms of delivery of health care to Indians, I think I can say that the urban American record on resources being available as being rather staggered is appropriate. As you well know, last year your committee attempted to get an appropriation of a little over \$9 million to fund the 35 programs in the United States, only about \$250,000 a program. This does not buy a significant amount of health care.

The urban Indian community growing in all the areas in San Diego County. We are in a boom period right now and we're seeing a significant number of people migrating to the county. The ability for us to arrest the problems of urban Indians are multiplying at a much great rate than we're able to try to respond to. We're confronted now with several major problems now that previously had not been even considered by us--AIDs has become an issue in Southern California especially, it is quite critical. We're also starting to identify populations that are at risk. There is a lot of talk about increased IV drug use. As the access to drug paraphernalia and drugs in San Diego increases, the problems associated with that in terms of physical and mental health, of potential AIDs infection, et cetera, are tremendous.

One of my concerns in dealing with Indian health has been the lack of attention given to urban Indians. A good example of this is the fact that Congress has appropriated \$300,000 for AIDs education for urban Indian programs in the United States. Here we are at the end of April—7 months into the Federal fiscal year—and those funds have still not been distributed to urban programs, therefore, many of us are left without the ability to respond. Funding is a consideration. I think, also, being over burdened somewhat by some of the directives that come down from the Indian Health Service, which are often inefficient and bureaucratic, tend to deny Indian people much needed resources.

In summary I would just like to say that I appreciate the opportunity to address this committee and make some effort at trying to gain greater attention for the urban Indian population. I believe the 1990 Census will show that there is even a greater number of off-reservation, urban area Indians that are being ignored to some degree or, at least, who are not being addressed adequately.

[Prepared statement of Mr. Forquera appears in appendix.]

The CHAIRMAN. I would like to assure you that the committee is looking into a possible solution to dealing with the small tribes in California. As you know, in the east and in the plains we have very large, powerful tribes—great confederacies—but in California I believe there are about 500 small clans or tribes. In fact, they are so small that the Department of the Interior refers to them as "tribelets", whatever that means. I would suggest that the tribelets get together and form a large confederacy.

We now call upon the chairman of the Viejas Band of Mission Indians of California, the Honorable Anthony R. Pico.

**STATEMENT OF ANTHONY R. PICO, TRIBAL CHAIRMAN, VIEJAS
BAND OF MISSION INDIANS, SAN DIEGO COUNTY, CA**

Mr. Pico. The Honorable Daniel K. Inouye, and members of the Senate Select Committee on Indian Affairs, welcome to Southern California.

The word "Inouye" in the Southern language, and my language, the Kumeyaay language, as we refer to ourselves, means "our relative". Senator Inouye, you have a reputation that proceeds you as a champion of the Native American people.

I am the chairman of the Viejas Indian Reservation, which is about 25 miles east of the city of San Diego. As little as 200 years

ago our people were completely independent. We enjoyed complete sovereignty over our own affairs. Our economic systems, our judicial, legislative, and executive branches of government served our people for thousands of years. Our government served us equally as well and we're as good as any government in the world.

I appear before you today as a conquered tribe of the U.S. Government who has our interest looked after by the BIA. We're known as "trust responsibilities." I am here before you today to report that the BIA has often times failed in its responsibility to hold in interest the trust of U.S. Indian Tribes.

Economic development of our tribes has seen a significant rise due to the many economic development expansions in the Southern California area. This acceleration will continue at a higher pace and our tribes are going to be a part of this economic growth as the urban sprawl meets the borders of approximately 30 percent of the reservations in this County.

I am here to say that the BIA has failed in its trust responsibility as far as reviewing and approving economic development contracts in a timely manner. For example, investment capital comes onto the reservation invited by the Indian tribes for the purpose of developing a project. This agreement then is in the form of a contract which goes to the BIA for its approval. It has to go the Riverside HC Office first, then has to go through the Sacramento Area Office. We believe that this process shouldn't take any more than 40 days but almost always it takes anywhere from 9 months to 18 months. It appears the Bureau does not recognize or even appreciate the financing and other intricate business activities that go on to make these contracts a reality. We believe that the BIA needs to be more sensitive in those areas and actually have their own timetables and be able to meet those timetables and if they do not there should be some penalty involved there.

In the areas of housing, the BIA has guidelines to ensure that the most needy get housing first. But in 1986 with the Pauma Band of Mission Indians, these guidelines were circumvented and now the Pauma Band is being penalized and will not receive any housing funds until 1990.

In 1973 the BIA representing the Pauma Band of Mission Indians on some land that is annexed to their property negotiated with the Pala Indian Reservation for an ingress and egress right of way for a forest products economic venture on land owned by the Pauma Band but which passed through land owned by the Pala Indian Reservation. The Pauma Band assumed that the Bureau was going to negotiate a permanent ingress and egress right of way for them. At this time now they find out that apparently that may not even exist. Repeated calls to the BIA to help them solve this problem have fallen on deaf ears. The solution is for the BIA to restore a right of way to lands owned by the Pauma Indian Reservation.

Law and order has always been a problem with California tribes since Public Law 280 came into effect. The grey area of criminal jurisdiction and the lack of funding has delivered inadequate protection for tribes.

In conclusion, the BIA has little respect and appreciation for the problems that face us everyday. They are still in mode of thinking

of 30 years ago while the tribes have steadily increased and advanced. The BIA must be accountable, must have guidelines and timeliness when dealing with economic development contracts. And there must be a consequence or penalty if these guidelines are not met. There must be accountability or consequence if the BIA does not fulfill the trust responsibility to the fullest.

I'd like to say may the great spirit of Miaja be with you and the committee during your journey in California and take you home safely.

[Prepared statement of Mr. Pico appears in appendix.]

The CHAIRMAN. I thank you very much, Chairman Pico. I, too, agree that we have often times forgotten that there is a trust relationship between our Government and the governments of the Indian Nations. I will call upon the Bureau to be a little more sensitive to your needs.

Before we proceed any further, I would like to stop and comment for a moment about the committee's staff.

When I became chairman 27 months ago, I wanted to make certain that the staff would be comprised of Indians, men and women who had gone through the process of living on reservations and who knew the trials and tribulations involved. So, I asked for the recommendations from your leaders throughout the land. For the staff director, one name came up most often. His name is Alan Parker. He is an enrolled member of the Chippewa-Cree Tribe, and he is also one of the most prominent Indian lawyers in this land. At the time I recruited him he was the president of a bank. He took a pay cut of more than one-half his salary to join this committee. He is the great, great grandson of the great chief, Sitting Bull.

For the chief counsel, this is the important legal position, because most of our problems involve the laws of the land, I was able to entice the chief editor of the American Indian Law Review, a very prominent Indian lawyer, a Navajo, who is also a doctor of psychology, and we are fortunate to have Dr. Patricia Zell as chief counsel of this committee.

For chief clerk, the third highest position, I was fortunate to have a young lady from the Cochiti Pueblo Tribe in New Mexico. She keeps account of all of our books, our equipment, supplies, Ms. Elva Arquero

The last member is a very new member of the committee but her youth should not mislead you. She has had a long history of experience with the Choctaw Tribe of Mississippi, Ms. Kathleen Hooker.

I would like to now call upon the Executive Director of the Indian and Family Services of Escondido, California, Ms. Rose Margaret Orrantia.

**STATEMENT OF ROSE MARGARET ORRANTIA, EXECUTIVE
DIRECTOR, INDIAN AND FAMILY SERVICES, ESCONDIDO, CA**

Ms. ORRANTIA. Thank you very much, Mr. Chairman, for allowing me to testify before this committee.

Let me make these points about issues that are of concern to us at Indian child and Family Services.

We are committed to education on child abuse and the need for increased intervention and prevention services throughout reservation and urban Indian communities;

We are committed to disseminating knowledge about the long-term affects of drug abuse on fetuses, children, and adults;

Increasing awareness of county services, such as welfare, housing, and transportation;

Increasing knowledge about Indian culture by elected representatives and departments of social services;

Increasing awareness of the Indian Child Welfare Act by all public agencies and an understanding that as a Federal law it must be implemented;

There needs to be education on parenting skills and child development.

We need increased recruitment and licensing of Indian foster parents, particularly foster parents who are trained to care for high risk infants (such as those who are HIV positive or who have been born addicted to drugs).

The areas of need that we encounter in Southern California in implementing the Act are a lack of sufficient child welfare programs in counties with high concentrations of Indian people. For this next year the Bureau has identified four projects in the State of California—two in the northern part of the State and two in the Southern part of the State.

The lack of State licensed of Indian foster family agencies in California, means Child Protective Services handles the placing of Indian children who are removed from their parents or guardians because of abuse or neglect. The children are removed by a county worker, the county sheriff, or police. The county social service workers are ignorant of the unique culture of Indian people and Indian children are removed from homes which those workers determine by non-Indian standards as unfit.

Indian people are reluctant to become involved with non-Indian public agencies for support services because of cultural insensitivity. County and private social services to the reservations are sporadic. There is very little regular contact with the reservations or Indian communities to provide dependable, culturally-sensitive support services.

Another obstacle to services for Indian people in the rural areas is the isolation of the reservations. No child welfare services make a special effort to service specific needs of American Indian children and families. Most are not aware of and do not understand the Indian Child Welfare Act. The services that are available in the area that we serve are important because when children are removed the families need a full range of supportive and remedial reunification services. There are Indian programs that provide these culturally relevant services and most of them are represented today and they will speak for themselves. The services they offer are important but they also suffer from a lack of sufficient funding. None of these programs specifically address Indian child welfare needs through casework, court advocacy, foster home recruitment, or other intervention described by the Indian Child Welfare Act, and that is what we need.

The problems that we encounter in trying to implement the Act in a Public Law 280 State, which California is, is that California, by its own survey, finds itself to be 85-95 percent out of compliance with the act and makes few, if any efforts, to increase that compliance.

I consider the following to be contributing factors for why the Act is not followed:

Insufficient ICWA training for county workers, judges, and attorneys. No funds are made available by the State or the Federal Government for training.

There is no mechanism in place in the State of California for early identification of children as Indian when they first come into the caseload. Identification is made when the case has gone to adoptions or when the child has been in foster care for an extended period of time and bonding with non-Indian caretakers has already occurred.

Inadequate knowledge of appropriate ICWA procedures for county workers, including the notification of tribes.

Inadequate development of Indian foster homes by county.

A lack of sufficient funds for implementation of the Act impedes our ability to do our work. There is a lack of Indian child welfare projects funded in California.

There is a lack of appropriate recordkeeping and a system of compiling ICWA statistics. There is a lack of standardization of data to be collected and reported to the BIA and to other agencies.

Field readers for our ICWA proposals are often times not familiar with the area for which they are reading. For example, they assume that because we have offices in small cities that we're an urban program. We're actually a consortium of small tribes in two counties. Field readers criticize us for having over-inflated budgets, not taking into account that Southern California is rated as one of the 10 most expensive areas in this country in which to live. Field readers do not know that we are required by State law to pay competitive salaries to our employees and that this requirement insures that we have good qualified Indian staff to do this very necessary and important work.

The last area of concern is education of the tribes regarding their ICWA responsibilities. Tribes need to know how to respond to notices from States and counties and they need to respond in a timely manner. Tribes need to inform their members of the law and it's importance to them. They need to know the benefits the law affords them and their children and they need to be responsible for their part in insuring that the Act is carried out.

If we've done our job well, we have intervened into the cycle of abuse and neglect, we have begun the process of building self-esteem, and establishing an identity of which the children can be proud, and, at least for these children, we've ended the ritual of abuse and victimization. No longer will these children be fated to abuse their own children. Their parents also will have begun to be in control of their lives and not victimized by substance abuse, alcoholism, and the other manifestations of despair.

I believe that in the State of California it is important to have ICWA projects in every county that has a significant population of Indian people. A system, whether State or Federal, needs to be put

into place whereby projects will automatically be funded in those counties with Indian populations. I have a list of recommendations of what should be done to implement the Act and to make sure that Indian children are protected.

I will just end by saying that of these the most important is ensuring that there are sufficient funds and that there are sufficient projects slated in order to do what the Act was designed to do.

[Prepared statement of Ms. Orrantia appears in appendix.]

The CHAIRMAN. I thank you very much. I promise you that we will do our best to get the necessary funds. Incidentally, I am senior member of the Appropriations Committee, which is where we handle the money.

I wish to now call upon four citizens and they will serve as a panel: Margaret Skare, representing the California Indian Tribal Chairmen's Association; Ernie Salgado, California Indian Tribal Chairmen's Association; Jim Fletcher, the same organization; and Denis Turner, executive director of that organization.

**STATEMENT OF DENIS TURNER, EXECUTIVE DIRECTOR,
SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION**

Mr. TURNER. Thank you, Mr. Chairman. My name is Denis Turner. I am the executive director of the Southern California Tribal Chairmen's Association.

I would first like to say that during the past week or so we put together a list of issues of particular concerns in California by doing a kind of flip-chart thing, asking the tribes, What are the needs? What are the ways to resolve the issues in California? There have been all kinds of reports that have been published in the last 10 or 15 years that are just sitting, the reports are good, viable, and usable; and parts of these reports can work in Indian country. So we formed this committee with the support of some 20 tribes who got together 1 week ago today to present these issues to you.

In coming here today a lot of people asked, What is the Tribal Chairmen's Association going to do? We have a lot of young leaders in the Tribal Chairmen's Association and elders and one of the things that everybody seems to assume is that these tribal leaders will just bash the BIA and other Federal agencies for not doing their jobs. Well, there are some jobs that the Federal agencies can do, but most of the jobs they have been doing for us are not being done very effectively and very efficiently. So that's why we joined together in making this presentation to the committee.

I do have written testimony that I will provide for the record and will offer a few additional comments. I know very well from what you said this morning that you have a very good background on the history of California. This is a copy of the latest publication put out, call "The Indian Survival in the California Frontier." What you have said Mr. Chairman is true, here is the documentation to it. I had some high school students who gave me this book and would like to offer it to the Senate Select Committee on Indian Affairs library for people who are calling you asking, What is the problem with those Southern California Indians? You can say to those people, "read this book." Read my lips or read that book,

whatever that guy said, he got someplace, so maybe it will help here.

The primary issue that I want to get to for the next few minutes is we know you have a million things to do. There are a lot of Indian tribes in this country and we certainly appreciate most dearly your coming out to see our children. I think that's going to be the greatest picture of the century—you and those 24 Indian children out there on that bench in the playground. They will remember it and I certainly will.

One of the problems that we have that I think needs to be addressed is that in California there is a very great need for increased funding. Money doesn't always solve human problems. It is just that in California it real funding has never been available. You can talk to Indian leaders of the past, contemporary, people who have taught me, I am at a time in my life where if there is a standing single most important issue to the Southern California Indian people it is that issue of funding. A lot more can be said but if that doesn't happen, I think the fiduciary process handled by the BIA will be fruitless and nothing will come to bear. There are going to be some changes we understand under the new 638 amendments. We have some workshops on Public Law 94-100, along with attorneys presenting them to the tribal leaders. But that amendment which we see is a big tribes initiative has done some great things for some but it is not going to really address the small tribes issues. We can spell out the conflict that we would see in the sections of the new amended law. I think that unless we get some increased funding for California, by an initiative in the Congress in the next year or two, I think we're going to have some permanent danger that will remain for the tribes for the rest of the century.

In speaking with the various tribal leaders who are here today, they certainly feel that funding is a priority issue and without it, we are just going to maintain a holding pattern. So, there agenda is that increased funding is their number one priority and I have been asked to relate that to you.

I thank you very much. May the good spirit be with you. I will submit these documents for the record.

[Prepared statement of Mr. Turner appears in appendix.]

The CHAIRMAN. Let me assure all of you that your full statements will be made part of the record. If you summarize it, do not feel that your statement will be incomplete. The full statement will be part of the record.

Mr. Fletcher.

STATEMENT OF JAMES FLETCHER, CALIFORNIA INDIAN TRIBAL CHAIRMEN'S ASSOCIATION

Mr. FLETCHER. Good afternoon, Mr. Chairman. My name is Jim Fletcher.

The issue that I am going to be addressing this afternoon is of vital concern to the California Indians' economic stability. Southern California is a growing, expanding area, with metropolitan areas now starting to meet the boundaries of the reservations. Eco-

conomic development for many reservations in Southern California will become a reality in the very near future.

One of the current concerns that many in the tribe has is how do we deal with this issue when we do not have adequate funds to plan for this type of development or to negotiate with the developers in order to develop projects on reservation lands. How do we continue to survive as a government when you only receive from the BIA \$5,000 a year for each tribal government. There is no other source of revenue coming into the reservation at this time except for what you can get out of grants to run your housing programs and various other aspects. Frankly, it is real tough. It is tough to do it when you only have enough funds for a part-time clerical person and the rest is done by volunteers. Many of the tribal committees are volunteers, most of them are working people, out there working during the day time and they volunteer their precious time at night to work on government issues. There is insufficient staff available for reservations in order to make these types of analysis work.

What happens a lot of times is you have a high turn over of staff as the grants run out, there is no stability. That stability is what we need to have. We need a sufficient amount of funding in order to adequately plan, adequately negotiate, adequately deal with economic development prospects. What compounds the situation is the bureaucratic inability of the BIA to make timely payments to tribal governments. If we submit a request to the tribal government in order to request funds for a 638 contract, it goes from the tribe to the Riverside Agency, to the Sacramento Agency, to Albuquerque. That process takes more than 6 weeks. You have to plan the cash flows in order to pay staff at least 6 to 8 weeks in advance before you receive the funds. If you have a very small budget, it is extremely tight for a government to be able to function. We are a government. We want to be able to plan and effectively negotiate with developers so we can have a stable base and not rely on Government funding.

[Prepared statement of Mr. Fletcher appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Fletcher.

STATEMENT OF ERNIE SALGADO, JR., CALIFORNIA INDIAN TRIBAL CHAIRMEN'S ASSOCIATION

Mr. SALGADO. Mr. Chairman, my name is Ernie Salgado, and I am a member of the Soboba Indian Reservation.

The issue I am going to speak on today is education. I have submitted a written statement and I would like to make some additional comments.

You have already gotten some historical background, but let me start with the education of Indians in the United States and specifically California. Our first contact historically was with the missions in the education process. Subsequently, the U.S. Government took over the education and we were put in boarding schools and also we had reservation schools. In the 1940s the education process was handed over to the State of California and the Indians were admitted to the public school system. We had some educational programs in 1976, when we began to give education money directly

to the reservations and to reservation-based programs. It is ironic that not only with the problems of Bureau but also with the State, the State has control over education process, but 3 years ago in the State of California the State Legislature passed legislation to make the schools districts in California accountable. When you think about that, that the school districts were not accountable, where did that leave our Indian children? Subsequently we contracted programs to provide some of the metro education programs on reservations to bring some of our students to grade level.

One of the problems we've run into with the 638 contracts is getting the cash flow into the programs. For example, as I stand here today, fiscal year 1989, with good contracts, and many of the people in this room who have contracts, we have not receive one dollar. We're still mandated by the Bureau to fulfill the contract obligations without any money. This isn't the first year this has happened, it's been happening since contracts. When 638 was initiated, it was felt that because education was always viewed as a stepchild it was separated from other Bureau programs throughout the United States. This worked, except they forgot to take contracting out of the process. Contracting was left to its own device, thus leaving the Indian tribes and providers of educational programs without the funds to meet the educational goals. Therefore, the education process was doomed to fail.

In California, Johnson O'Malley funds in the last 10 years have been reduced by 50-70 percent. For example, 10 years ago there was over 8,000 students participating in the State of California at approximately \$200 per student; today there is less than 3,500 students being funded in the State of California at less than \$90 per student.

Higher education is another area that Indian people are concerned with in Southern California. Today the budget for the State of California is \$490,000 for higher education. Of the \$97,000 appropriated for Southern California, only \$36,000 has been approved for students. There are only 31 students in Southern California attending higher education through the Bureau. The Bureau has a system to provide this service through local agencies and has contracted through local agencies to provide this service; however, they forgot to give them the money to provide the students with funding, thereby discrediting the local agencies who provide this service.

When this did happen, student count went up to 146 students. Subsequently, because of the lack of funding, many of these students were forced to drop out school because they didn't have the resources to continue.

Another good example is I received a call last week from a young 20-year-old student, a mother with a young child, she's in her third year at university, her funding level was approximately \$5,000 a year. Because her father made \$1,000 more last year than the year before, the financial aid officer recommended to the Bureau that the funding be reduced by \$3,200. That student called last week and suggested that she may be dropping out of school because she may not be able to afford to continue.

When we stop and think that only 1.5 percent of the Indian students attend college finish, what are we supposed to do? The money is available, but we can't get it.

In summary, Senator, I would like to make some recommendations that come from the tribal chairmen. We would like to recommend an increase in the Indian education funds. We would also like to recommend that the BIA contractors be held accountable for contracting and following the mandates and the rules and regulations of Public Law 93-638. We would also like to see a separate contracting agency within the Bureau to take care of education. We would also like to see the rules and regulations for education be waived for 5 years. We would also like to recommend that a separate education committee or education board be established or be considered in conjunction with the proposed S-611 legislation.

I would like to thank you again, Mr. Chairman, for allowing me this opportunity to make this presentation.

[Prepared statement of Mr. Salgado appears in appendix.]

The CHAIRMAN. Thank you, Mr. Salgado.

Ms. Skare.

STATEMENT OF MARGARET SKARE, CALIFORNIA INDIAN TRIBAL CHAIRMEN'S ASSOCIATION

Ms. SKARE. Good afternoon. My name is Margaret Skare and I am a member of the Santa Ysabel Band of Mission Indians.

I have been involved in all the consultation meetings here at the Southern California level as well as the national level concerning the amendment to Public Law 93-638.

It is really important that small tribes be involved. We have at the national level been pushed aside because large tribes have spoken out. As you indicated earlier, California has a large number of Indian people but the funds do not come to California, they're kept back at the large tribe level.

An essential factor in the success of the politics of the Indians self-determination is that it ensures the tribes and our California small tribes to plan and deliver services appropriate to the diverse demographic, geographic, economic, and institutional needs. To be able to accomplish this goal, the small tribes in Southern California insist that a base funding of Indian self-determination grants and contracts be established at \$200,000 per tribe and additional funding thereafter during each fiscal year. This was addressed at a meeting in November here in Southern California with the resolutions by the tribes of Southern California.

The Southern California tribes also need the full cooperation of the agency—area and central offices—in regard to an equal division of the funds. Small tribes need to have the right of opinion of either negotiating indirect cost rates or obtaining a flat rate of 25 percent, whichever is greater.

If the tribes are forced to have an indirect cost rate in order to obtain contract support, this could effectively deny a tribe an indirect rate and contract support. Small tribes should be given the option of either negotiating an indirect cost rate if they choose or can do so, or receiving a contract with a negotiated rate.

About 2 weeks ago people who attended the national consultation meetings received update notices from Indian Health indicating that there would not be a third workshop. They said that the Indian Health Services could not fund tribal participation for the third workshop. However, the Indian Health Services will continue to meet with the steering committee, which has tribal participation paid for by this agency. We're not sure yet if the Bureau is going to be involved. We do know that there are some Bureau people sitting on the steering committee. The tribes need to be involved. This law, Public Law 93-638, amended by Public Law 100-472, is a tribal law. It is not an agency law. The tribes need to be further involved in it. If they're not, then again the tribes have been promised something and not given it because the agencies are doing the work, not the tribes.

The tribes voted that this law would be a final rule in December 31, 1989. By adding on additional months to this final rule, tribes cannot go after a mature contract until fiscal year 1991, which makes it very difficult. Tribes are now getting geared up and ready and they can't do it because agencies—both BIA and IHS—are again stopping small tribes.

Congress stated, after careful review, in section 2(a)(1) of the Public Law, "the prolonged Federal domination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of the Indian communities."

It is imperative that the "Declaration of Policy" section 3(a) be reviewed for complete understanding in its statement that "The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of education, as well as other Federal services to Indian communities as to render such services more responsive to the needs and desires of those communities."

We, the small tribes, feel that this can only be done if small tribes are involved in complete negotiation and writing of the final rule of Public Law 100-472.

Thank you, Mr. Chairman.

[Prepared statement of Ms. Skare appears in appendix.]

The CHAIRMAN. I thank you very much, Ms. Skare.

I am pleased to tell you that on June 9, 1989, the select committee will be conducting a special hearing on 638 programs because of the concerns you have expressed.

Before proceeding, I am well aware that most of the witnesses will be talking about the lack of funds. I agree with that. However, during my tenure as chairman I was made aware of a project in this part of the country and so I made an extra effort to visit this place—the Indian Health Council Clinic at the Rincon Reservation. The executive director there is Mr. Dennis Magee. This facility was built without Federal funds. The work was done by volunteers, a crew of Marines came in and levelled the ground, Navy personnel

helped build the clinic, churches raised funds, the community raised funds, and I am pleased to tell you that of all the health clinics I have visited in the last 2 years—that is over 50 of them—this facility is the finest and I think we should give special recognition to Mr. Magee.

[Applause.]

Now I am pleased to call upon the chairperson of the Pala Band of the Mission Indians of Pala, California, the Honorable Patricia Nelson.

STATEMENT OF HON. PATRICIA NELSON, CHAIRWOMAN, PALA BAND OF MISSION INDIANS, PALA, CA, ACCOMPANIED BY ED ARVISO, CHAIRMAN, RINCON BAND OF MISSION INDIANS; HENRY RODRIGUEZ, PRESIDENT, SAN LUIS REY WATER INDIAN AUTHORITY

Ms. NELSON. Thank you, Mr. Chairman. I have with me Henry Rodriguez and Ed Arviso, the chairman of the Rincon Band. The San Luis Rey Indian Water Authority is making a presentation as well today and we all kind of come in a package.

On behalf of the Pala Band and the 646 Band members we represent, I want to express our sincere appreciation for the opportunity to speak before this body today. The Pala Band commends you, Senator, for your interest in our people and our purpose in offering this testimony is to give you a clear and concise picture of the problems, fears, and the desires of the people I represent.

The Pala reservation, as you saw for yourself, is located in one of the most affluent and prosperous sections of north San Diego County. The land adjacent to our is nurtured, cultivated, and blanketed by citrus, avocados, golf courses, and million dollar homes while our land, our 11,000 acres, sits barren, covered with dilapidated, abandoned vehicles, riddled with trash, illegal chemical, the waste of non-Indians who come in and out of our community on a daily basis.

The Pala Reservation is not now how we would like it to be. The membership of the Band is frightened by the many non-Indians who have made our home a dumping ground for their illegal chemicals, a point of sell for illicit drugs and weapons, and a night time playground for those of us who have succumbed to the hook of drugs and alcohol.

We want very, very much to take charge—to restrict, expel, and confine those that break your laws and ours. Yet, we are made helpless, powerless by the nebulous language of Public Law 280. We are may impotent by the lack of funds from either the BIA or the State of California. Instead, we tread lightly in our community and we beseech all Gods to watch over our children, our seniors, and those of us who are helpless.

We want very much to take responsibility for those who have become anesthetized to the pain of poverty and unemployment by drugs and alcohol. We want to take them and lead them to recovery. Yet, we are made helpless by the absence of funds with which to do so. As tribal leaders, we are left feeling unbecoming of the positions we hold as we search in vain for beds in halfway houses and

rehabilitation centers—beds that simply are not there to us, beds that will never be there to us, beds that only money can buy.

We, too, want to take our land and use it just as our non-Indian neighbor uses it now. We want to use our land to become strong, self-sufficient, capable. Yet we find that the cost associated with developing our land, coming up with a viable business plan is prohibitive. We find that the profits involved in doing so is mystifying to the people that we serve. It is confusing to the people on the Pala Reservation that make the decisions—the people, the voter. When the membership was once asked to spend \$30,000 on a market analysis and feasibility study, one member stood up and said, "holy smokes, what if the study shows that the plan has no merit?" The idea of being careless with what very, very little money we have is abhorrent. The Pala Band, like most, has gone through decades of study, always by someone else, seldom, if ever, with any result.

The economic development process is the most critical issue facing the Pala Band today. The need to start some type of income-generating activity is an immediate and urgent need. The people are anxious to do so. This is documented by a recent survey that we conducted which shows that 69 percent of our membership are anxious to start a business. But as tribal people we have no means of initiating these plans without too great a risk to the people.

The interest of the people is what the tribal government is obligated to act on. Yet we have no support, very little money, no agency, no advisor who can facilitate the process. We must find a means of enabling the Pala Band and all of the Bands of Southern California through education, study, economic analysis, without risk, without expense, and without sacrifice by the people.

The Pala Band now contributes \$100,000 of-our own money to our Boys Club, our Cultural Center, and our Security Department. These are the only avenues that we have, the only shoreline in our ongoing struggle to protect our land. The Pala people cannot be asked to forgo support for these causes today for a dream of an economic future that may never come true.

We look to you, Senator Inouye, the respected members of this committee, the Congress of the United States to assist us in gaining the technical expertise and support we need to stabilize our economy, be it through loans, seed money, technical support. We look to you, Senator, and the Congress of the United States to assist us in finding a means to implement the programs that will help us solve our problems. We want to implement, make progress on our reservation, and we need to do it without tapping our limited financial resources and without hurting those most in need, the people of the Pala reservation.

We want to thank you very much for the chance to speak today so freely and with such candor. We want to thank you very much for visiting our reservation.

[Prepared statement of Ms. Nelson appears in appendix.]

The CHAIRMAN. Thank you very much.

STATEMENT OF HON. ED ARVISO, CHAIRMAN, RINCON BAND OF MISSION INDIANS, VALLEY CENTER, CA

Mr. ARVISO. Senator, my name is Ed Arviso, and I am the tribal chairman of the Rincon Indian Reservation.

I agree with Chairwoman Nelson and many of the people who have testified here about economic development on reservation lands. Our concern is we need to protect our land against unscrupulous people who come to our reservation and manipulate the real estate there.

Because of our unique land status in California, we have unscrupulous investors who are circumventing Government and trying to negotiate contracts without input from our people and without input from our government.

Thank you, Mr. Chairman.

STATEMENT OF HENRY RODRIGUEZ, PRESIDENT, SAN LUIS REY WATER INDIAN AUTHORITY, PAUMA VALLEY, CA

Mr. RODRIGUEZ. Senator Inouye, my name is Henry Rodriguez. I am an enrolled member of the La Jolla Band of Mission Indians.

I'd like to thank you for the opportunity to speak before this body today and do so in my capacity as president of the San Luis Rey Indian Water Authority. I would also thank all of you concerned people who are here today listening to us and giving us the support that we so need to succeed.

The San Luis Rey Indian Water Authority is a tribally chartered organization created to represent the interest of Pala, Pauma, Rincon, La Jolla and San Pasqual Bands in litigation over the rights of the San Luis Rey River.

The dispute, which involved the diversion of the water of the San Luis Rey River into the cities of Escondido and Vista, was resolved by the 100th Session of Congress with their passage of S. 795, the San Luis Rey Indian Water Rights Settlement Act. The passage of this Act represents the first opportunity in over 100 years for the Bands to take full responsibility for the future. It concludes 20 years of deprivation and signals the start of a new era whereby the five Bands may build new life on the reservations, renew lost hopes, and promote self-sufficiency through the creation of economic opportunities.

Briefly, the legislation authorizes and allocation to the Bands of 16,000 acre feet of water and a \$30 million economic development trust fund. The water will be available to support the domestic, irrigation, and industrial needs of the Bands while the trust fund may be leveraged to address capital requirements of desire enterprises.

While a conclusion to our dispute the with cities of Escondido and Vista represents a giant step towards self-sufficiency, it cannot be considered a panacea to all the Bands problems. The Authority has been given very clear and direct guidelines by the Congress to utilize all resources generated through, and by, a settlement to support the economic growth and development of our reservations. The Authority cannot be expected to either supplant BIA, Public Indian Health, or other agency services or monetarily

support the operations of programs to accommodate specific social, cultural, or health needs.

The fears of the community have been fueled of late by a series of crimes on all of the reservations served by the Authority. Murders, drug arrests, drive-by shootings, child abuse, and other types of violations common to economically depressed communities, are now regular occurrences on our reservations. Solutions must be found for these and other problems which negatively impact the health, safety, and well-being of our tribal communities. Solutions, however, cost money—money that the Bands simply do not have.

Environmental problems, which Mr. Arviso addressed, are other areas of major concern. One of the proposed dump sites abuts a large rocky mountain called Indian Rock, which was historically used by the Luiseno for religious purposes. This mountain is believed to be the home of a mystical religious figure central to their religion and culture. Yet, this value is readily discounted by the county officials whose concerns are for the 500,000 people for whom a dump must be found.

The Bands are also concerned about the potential of both dump sites to contaminate the ground water and while the Pala Band and their tribal neighbors have gone on record in opposition to the two sites under consideration, the Band has neither the financial resources nor the technical support from the BIA, or any other agency, to provide the hydrological studies needed to document the potential of contamination.

The Southern California Bands are more often than not helpless and unable to take full responsibility for ourselves, our people, and our resources. We have neither the money nor the expertise to initiate the types of drug and alcohol recovery or counseling programs we need and desire. There is no agency, no vehicle, no funding allocation that we can look to for assistance with the types of educational, cultural, or training programs we need and desire.

And so, Senator Inouye, please be aware that in Southern California there exists a very real and ever present need to provide the Bands with some type of assistance, be it financial or technical. We must become more enabled; we must have available the resources with which to protect the Bands from situations that might be harmful to the health, safety, and well-being of the memberships.

We honestly believe that the BIA, as part of their trust responsibility, must be more instrumental in providing us with the means to challenge the plans of developers and others whose sole objective is to make a profit at the expense of the people who live on the reservation.

We honestly believe that the problems of our five reservations will continue to increase, just as they have over the last 20 years, until such time as the Congress of the United States corrects the inequity in funding to California Indians by the BIA. Until such time, the Southern California Indians will continue to fend for themselves, continue to attempt our own corrections, insufficient though they might be, all at tremendous cost to the livelihood, the environment, and the spirit of our people. We need your help, Senator Inouye, and the help of the Congress of the United States, to provide us with the type of technical and financial infusion that will bring our tribal communities back to life.

In addition, I would ask you in your official capacity, your colleagues, and those in leadership that do respect your trust responsibility to assist us in all those areas that will enable us to become self-sufficient and to do it in an honorable manner than we can be proud of ourselves.

Thank you.

[Prepared statement of Mr. Rodriguez appears in appendix.]

The CHAIRMAN. Thank you. I would like to assure you that the laws of this land as they relate to the environment applies also to all reservation lands. Under the law, if the authorities on the reservation find it impossible to enforce these provisions, then they can call on EPA to assist them. I will most certainly check on the situation in this area.

Second, on the matter of financing, we are well aware of the difficulty that Indians have going to a bank, as most of us do, to borrow money. We drafted a measure, under the guidance of Alan Parker, to set up an Indian financ development corporation fashioned after the World Bank, to have Indians participate in policy-making, in raising of funds, together with the U.S. Government. It passed the Senate, it passed the House of Representatives, but I am sorry to tell you that the President of the United States did not agree with us. That would have made it easier for Indians to borrow money—their own money—and help themselves the way that the witnesses have so declared. We will try once again and I hope that the new President will be much more enlightened than the last one.

Our next witness is the chairman of the Morongo Band of Mission Indians, the Honorable Dennis Miller.

**STATEMENT OF HON. DENNIS MILLER, CHAIRMAN, MORONGO
BAND OF MISSION INDIANS, BANNING, CA**

Mr. MILLER. Good afternoon, Senator. My name is Dennis Miller. For the past several years I have been the chairman of the Morongo Band of Mission Indians.

I am here today to ask you help in introducing legislation that will nullify California's possessory interest tax. Unlike other tribes, we're make a little money and we'd just like to try to hang onto it. Under California law, non-fee interests in trust land are subject to county taxation. Counties assess this tax is various ways. Sometimes they do it on the value of the land, sometimes it's on the value of the lease, and other times—as in Riverside County's case—it is on the receipt of profits of the business. Often we enter into business arrangements where that profit of the business is distributed between the investor and the Band and we have this unknown quantity of whatever that possessor tax is going to be, which is somewhat arbitrary, and that leaves us all in an unknown situation. For instance, Riverside County originally started off taxing our bingo with \$200,000. However, we have got it down to \$80,000, but in the meantime we spent \$30,000 in attorney's fees to get it to that level. So I would ask your help in seeking some type of Federal law to nullify that tax.

As a matter of fact, just yesterday the U.S. Supreme Court handed down a decision in which they upheld the State of New

Mexico in which a severance tax was placed on an Indian business. I won't read the decision of the Court, I'll just read you the dissenting opinion, and this was given by Justices Brennan, Marshall, and Blackman, who have supported Indian rights over the years. In the dissenting opinion, Justice Blackman says, "New Mexico"—in our case Riverside County—"is increasing its revenue at the expense of tribal economic development. That violates Federal policy expressed in laws and regulations to protect Indian self-determination."

That's all I have to say. Thank you, sir.

The CHAIRMAN. Thank you very much, Mr. Chairman.

Our next witness is the vice chairman of the Rincon and San Luiseno Band of Mission Indians, the Honorable John Mazetti.

STATEMENT OF HON. JOHN MAZETTI, VICE CHAIRMAN, RINCON AND SAN LUISENO BAND OF MISSION INDIANS, VALLEY CENTER, CA

Mr. MAZETTI. Senator Inouye, I wish to welcome you to Southern California today. I also want to thank you for coming out to Rincon this morning and touring our reservation. I hope that it was a pleasant tour.

Today I am representing the Rincon Indian Reservation and wish to bring forth some concerns that involve people on our reservation. The foremost one, of course, is funding. We on Rincon feel that traditional funding that we have received from the Bureau, we are relying on it in order to carry out the responsibilities of our tribal government. As of today we have only received approximately \$9,000, which can barely supplement a secretary's wage.

I hope to bring forth that traditionally the tribes have relied on bigger amounts of money, with which we can have a full-time staff. I think you should realize that in order to develop a government within a reservation, staff is important to do the day-to-day operations.

I recently understand that the Bureau is doing an equity study on central, area, and agency offices in which more equitable amounts of funds would be doled out. We feel that this realignment process would, in fact, have an adverse impact on tribes who currently receive a substantial amount of funding through the budget system. We feel that maybe a more positive approach would be to fund areas that have traditionally been under-funded, in which case we hope that maybe some of the competition for money will be somewhat quelled.

One of the other things I wanted to bring out is that since our tribe has been scrambling for monies to operate, we have a problem with the State/County tax collectors with those businesses throughout our reservation owned by Indian and non-Indian. The county and State have been collecting taxes and it has become a tax base, tax moneys are collected and then put in the county and State coffers. We as a tribe would urge that, if it is possible, some sort of directive or legislation or agreement with the State and county be instituted so that some of those moneys that they rely on from our reservation be returned to the Indian tribes and therefore we as a tribe provide some of these community services and func-

tions. I feel that the county could do this, and should do this, so that maybe we won't be such a hinderance upon the Federal Government.

One of the other things the tribe asked me to bring to your attention today is that since we are a Public Law 280 State, we've had problems with the local sheriff's department. We've had a number of crimes in which we feel the sheriff's department has been unresponsive. Public Law 280 states that the State would provide law enforcement to tribes throughout California. We find that the State seems to have placed this specific law enforcement responsibility in Riverside County in the County Sheriff's Department. It is kind of bad to have a feeling that the sheriff's department is uncooperative. I wish to state that I hope that this forum could help the Sheriff's Department and the tribal governments of the reservations to meet on a more government-to-government basis.

Thank you.

[Prepared statement of Mr. Mazetti appears in appendix.]

The CHAIRMAN. Thank you very much.

Have you discussed these problems with the State?

Mr. MAZETTI. Yes, sir; I have. We testified before the State Attorney General's Office and we've aired these problems. As of yet, we seem to have resolved nothing.

The CHAIRMAN. Thank you very much.

I am now pleased to call upon the Indian student services coordinator of title IV program, representing the Fallbrook High School, Fallbrook, CA, Ms. Karlene Vernaci.

STATEMENT OF KARLENE VERNACI, INDIAN STUDENT SERVICES COORDINATOR, TITLE IV PROGRAM, REPRESENTING FALLBROOK HIGH SCHOOL, FALLBROOK, CA, ACCOMPANIED BY TONI BONGIOVANNI, STUDENT ASSISTANCE COUNSELOR, FALLBROOK HIGH SCHOOL

Ms. VERNACI. Good afternoon, Senator. My name is Karlene Vernaci. I am an enrolled member of the La Jolla Band of Mission Indians and I am Indian student services coordinator for the title IV program at Fallbrook High School, and an instructional aide for the Rincon Education Center, and the project director of the Johnson O'Malley Program on the La Jolla Indian Reservation.

My number one concern is the education of our Indian children from head start to elementary, to high school, to higher education and vocational education. Presently there are 63 Native American students attending Fallbrook High School which serves five reservations—Pala, Pechanga, Pauma, Rincon, and La Jolla. I am proud of the individual and group accomplishments of the Native American students at Fallbrook High School. However, some students have competition for their success. As a group, the Native American students have a 23-percent dropout rate. The campus and communities, however, have lost and are losing artists, journalists, athletes, dancers, leaders, and college-bound students to crystal, marijuana, and alcohol.

In an effort to assist Native American students with assessments and treatment programs, the students, parents, myself, and the

student assistant counselor at Fallbrook High School were faced with numerous barriers. In order for the students healing process to begin, they needed to be hospitalized. Unfortunately, they were told that no beds were available and they were not referred to another hospital. Also, when they were referred to Indian Health for financial assistance, they found that due to Indian Health's budget, Indian Health could not provide families with financial assistance necessary to secure a bed in a hospital.

Upon seeking treatment for the students, I referred to my resource list. Due to the many variables involved; available bed space, expenses, acceptable insurance companies, Medi-Cal, which will only treat or pay for psychological cases, I was referred from one treatment program to another, and from one person to another. The average cost of an in-patient program is approximately \$545 per day. Most of the in-patient programs are 30 days. The financial costs of an in-patient program is approximately \$16,000. The purpose for addressing chemical dependency is because there is a need and there has been a need. Our greatest assets are our children—healthy children. Our future lies in the mind, body, and the spirit of our youth. Chemical dependencies destroy these same elements and threatens the existence of our people.

You are my 28th referral. I stand before you today to ask for your support for sufficient funding in Indian education programs and treatment programs for chemical dependency. Our children need your support to grow up in health communities.

Thank you for your time.

The CHAIRMAN. Thank you very much.

Ms. VERNACI. I would like to introduce to you now Toni Bongiovanni, who is student assistance counselor at Fallbrook High School.

STATEMENT OF TONI BONGIOVANNI, STUDENT ASSISTANCE COUNSELOR, FALLBROOK HIGH SCHOOL, FALLBROOK, CA

Ms. BONGIOVANNI. Hello. I am Toni Bongiovanni from Fallbrook High School. I am presently the student assistance counselor. I have been at the High School for 11 years and I have lost many Indian students over that time period primarily due to substance abuse.

According to recent statistics, San Diego County is the leading county in the country in the manufacture, sale, and use of crystal methamphetamine, and leading crystal methamphetamine exporters in the world. In the country, it is No. 2 in heroine use, No. 4 in marijuana, and No. 6 in cocaine. It is no wonder that adolescents in the county have easy access to illicit drugs.

Adolescent usage is not the result of lack of parenting, poor education, or stupidity, but rather a desire to be different.

To summarize, the bottom line is I have written a grant called the "Step in the Right Direction." It is a three component grant: One component would put an Indian support group facilitator at the Pala Reservation and an Indian tutorial aide at the Pala Reservation to help with some kind of after care and some kind of drug education directly on the reservation. Karlene and I have been unable to get Indian students or indigent students into any kind of

detoxification or treatment. Many of these children need at least in-house detoxification and it is just virtually non-existent. It is very, very frustrating.

To add to your comment about the Environmental Protection Agency, in completing this grant last week, I needed to have it signed off on by the Environmental Protection Agency. They told me that Pala Indian Reservation does not fall under their jurisdiction, that they are exempt. So there is a real difference between what is perceived to be and what is actually being done.

Thank you for your time.

[Proposed grant application appears in appendix.]

The CHAIRMAN. I can assure you that I will personally check with EPA on this matter. I agree with your concern about education. I hope that all of us will remember that education does not necessarily begin with kindergarten or head start. It begins at the time of conception. If at the time of pregnancy a mother is drinking or taking drugs, that will most certainly affect the growth and development of the brain of the child. So let us give our children a better start before they begin school or go to head start.

Our next witness is the chairman of the Agua Caliente Band of the Cahuilla Indians of Palm Springs, the Honorable Richard M. Milanovich. He will be accompanied by Ms. Barbara Gonzales-Lyons.

**STATEMENT OF HON. RICHARD M. MILANOVICH, CHAIRMAN,
AGUA CALIENTE BAND OF CAHUILLA INDIANS, PALM SPRINGS,
CA, ACCOMPANIED BY BARBARA GONZALES-LYONS, TRIBAL
MEMBER**

Mr. MILANOVICH. Thank you, Mr. Chairman. My name is Richard M. Milanovich. I am the chairman of the Agua Caliente Band of Cahuilla Indians.

Our reservation exists in somewhat of an urban environment inasmuch as we have the city of Palm Springs, the city of Petito City, the city of Rancho Mirage, as well as the county of Riverside, which means that our land base is quite important to all four municipalities and the county government, including ourselves—so five governments in all. So of primary interest is land use issues.

First, we hear reports that Manuel Lujan, the new Secretary of Interior, our trustee, is considering a 1-year moratorium on taking any land into trust for tribes or individuals by the BIA throughout Indian country. We do not know if these reports are true but if they are, they will severely hamper our member's ability to develop their lands. All or portions of our allotments are frequently condemned by local authorities for public purposes. We frequently sell parcels not well suited for development, and we exchange parcels to consolidate for development. Such condemnation and sale produce funds which, until now, were routinely used to purchase other lands on the reservation, which were then routinely taken into trust by the BIA in the ordinary course of business, nearly always within the exterior boundaries of the Agua Caliente Indian Reservation. Any moratorium would unnecessarily limit our ability to convert the proceeds of trust lands into other trust lands for leasing purposes.

Also, the tribe has almost no trust land itself for development. The tribe is considering the purchase of land with tribal funds within the reservation for economic development projects to benefit the entire tribe. But we cannot proceed if we cannot have such land taken into trust.

Therefore, we urge the committee to question the BIA regarding any moratorium which would prevent the tribe and our allottee-members from engaging in routine trust takings within the reservation. I do have a clarification. Since this statement was prepared, I have learned that it is not the BIA itself that is proposing the moratorium, it is the Department of the Interior.

Second, the existing BIA leasing process is so cumbersome and time-consuming that many potential lessees purposely avoid our lands to avoid the process. Before they left office, Secretary Hodel and Assistant Secretary Swimmer both visited our reservation and viewed developed and undeveloped allotments. They both understood how the present leasing regulations and procedures are largely obsolete and not geared for urban environment and a fast paced real estate market. To remedy this situation, they formed a task force of BIA personnel with various backgrounds, plus tribal representatives, and we are now working together to propose measures which would simplify and streamline the leasing process. Therefore, we urge the committee to consider favorably whatever changes the task force may recommend to it to achieve this goal. Also, in 1984, there was formed a California Indian task force of various tribal members throughout the State and Bureau personnel which published a report in 1985 which contained several regulations concerning a whole litany of problems in Indian country in California. That should also be read sometime, if at all possible.

Third, for historic reasons, the Agua Caliente Band, like most Southern California tribes, voted to reject the Indian Reorganization Act back in the 1930s. One of the IRA's main features is found at section 2: "the indefinite extension of the trust period for all allotted and non-allotted trust lands of all IRA tribes." Our tribe, like all non-IRA tribes, cannot rely on the stability and ability to engage in long-range planning that this statutory guarantee of continuing trust status provides. Instead, we must rely on the 5-year extensions that the Secretary routinely issues administratively as each 5-year extension is about to expire. Such administrative practice is certainly welcome, but it is not a substitute for the reliability and strength of a statute. Potential lenders and developers, as well as allottees and the tribe itself, are all aware of the possibility that the trust status of our lands could expire at 5-year intervals. This deters long-term development because many development plans count on uninterrupted trust status.

Thank you very much, Senator Inouye.

At this time, I would like to introduce Barbara Gonzales-Lyons, a tribal member and previous tribal chairman.

[Prepared statement of Mr. Milanovich appears in appendix.]

Ms. Gonzales-Lyons. Thank you. My name is Barbara Gonzales-Lyons and I am a member of the Agua Caliente Band and also past chairman. I am here to state on behalf of other tribal members and myself that we are opposed to any proposed moratorium on Indian

trust lands and I and many members have Indian trust land sales pending. That is all I wanted to state.

Thank you very much.

The CHAIRMAN. Thank you.

Our next witness is the vice chairperson of the Santa Ynez Indian Reservation, Santa Ynez, CA, the Honorable Jennie Guillen.

**STATEMENT OF HON. JENNIE GUILLEN, VICE CHAIRPERSON,
SANTA YNEZ INDIAN RESERVATION, SANTA YNEZ, CA**

Ms. GUILLEN. Thank you, Senator Inouye.

I appear before you to express our concerns of the Santa Ynez Reservation in regard to housing. The Santa Ynez Reservation leases lands from Old Mission Indian Housing Authority to provide 36 homes for Indian families. These families were assured last year that in 3 months they would be able to move to new homes. Consequently, 36 modular homes were moved onto reservation land. There is some private land running through the reservation and the Bureau tried to get an easement through this land only this was not done before the houses were built. Some of the plumbing in the homes did not meet requirements. Therefore, these homes are still sitting unoccupied on our land for over 1 year.

These homes are being destroyed, they are being vandalized. To date, we do not know where we stand with our Mission Indian Housing Authority or HUD. It seems that the contractor who was supposed to build these homes has refused to do so because of infighting, because of money that is supposed to be paid to him. We, the Indian people who are supposed to receive these homes, are the ones who are suffering. We have families who have moved out of their apartments and homes and are either living in trailers or with relatives waiting for these homes. However, we do not know when these homes will be finished. We would ask at this time for you to try and help us resolve this problem.

We thank you very much for your assistance.

The CHAIRMAN. We will do our best. You can assist us by sending whatever materials you have and we will get to work on it immediately.

Our next witness is Ms. Helen Ryan of San Diego.

STATEMENT OF HELEN RYAN, SAN DIEGO, CA

Ms. RYAN. Thank you, Senator. I am not Native American, I am a friend to the Indian. I am affiliated with the Native American Health Center, the Human Resource Center, and Big Mountain Support Group.

These hearings can very well become the stepping stones to implementation of justice for our Native Americans. There is an overwhelming desire for many people to know our Native Americans are established in a viable, guaranteed position that is ideal for them—that of sovereignty. Attempts of our Native Americans to secure a portion of their homelands ended when they were conquered prisoners of war. In essence, the prisoners of war status remains. Our Native citizens exist in a perpetual state of government bondage. It seems only logical to implement the same unstinting benefits to our Native American prisoners of war here at home as

was lavished on our not too distant past enemies, Germany and Japan. Those two Nations attacked the world, inflicting destruction. Yet Germany and Japan were recipients of the United States' outpouring of dedication and funds to restore them to their before-the-war status. With the unlimited aid given by our Government, both German and Japan, prisoner of war Nations, now enjoy abundant prosperity and stability. The reparation plan proved remarkably successful. The very same principles, with equal dedication and equal funds, can be put to rescue our Native American prisoners of war.

The honor of our whole country is tarnished with all the failed promises made to our Native people. Rights, preached to the world, unfulfilled at home, compound contradictions, more for some, little, if any, for others. We live within the realm of all possibilities. With unclouded vision, rediscovery of America is the passport to compassion with action. There are compelling realities—fulfillment of promises for restitution, Constitutional guarantees for citizens' rights and equalities, prisoner of war provisions and declarations. All three are impetus upon which to structure our long awaited justice for our Native Americans. With sovereignty, our Native Americans will be honored with the freedom to be themselves—our First Citizens.

Thank you.

The CHAIRMAN. All I can say is, "Amen."

Our next witness is Ms. Catherine Saubel of San Diego.

STATEMENT OF CATHERINE SAUBEL, REPRESENTING THE CITIZENS COMMITTEE OF THE LOS COYOTES INDIAN RESERVATION, SAN DIEGO COUNTY, CA

Ms. SAUBEL. Senator Inouye, I am certainly glad to be here today. My name is Catherine Saubel. I am speaking for the members of the Citizens Committee of the Los Coyotes Indian Reservation which is located near Warner Hot Springs, CA.

We are governed by customs and traditions. Only 11 families reside within the reservation. Several non-Indian families are living in the reservation without the consent of the tribe but with the acceptance of the BIA.

Signed petitions against the BIA, the National Tribal Chairmen's Association, and the Southern California Tribal Chairmen's Association will be handed over to your committee before the end of your investigation.

A new Federal agency should be formed to uphold the trust responsibility toward the Indians.

We are eagerly awaiting the ruling on Senator Orrin Hatch's bill to provide for Federal court review and enforcement of the Indian Civil Rights Act.

A change should be made regarding the give-away, Public Law 93-638, Self-Determination Grants, which are now being called "Aid to Tribal Governments." And that is exactly what they are, benefitting only the tribal government, not the individual Indians.

Since we are small reservations, you may think it a waste of time to check on this. But since our people are the losers when it comes to help for housing, jobs, sanitation facilities, et cetera, we

believe that the time spent on this project would set a precedent for a better living in our reservations.

The voting ordinance that our spokesmen changed should be declared void as it lacks certification as to how many persons voted for it, against it, or abstained. The BIA was informed of this many times, but nothing was done about it. Several times we sent petitions of voting recalls with the required number of signatures to all three BIA offices. We did not even get a reply.

Because of the protection they get from the BIA, honest tribal chairmen are hard to find around here. The tribal chairmen's organizations have not been authorized to speak for Los Coyotes. We do not even belong to them.

HUD is just as bad as the BIA, if not worse, when it comes to wasting Federal moneys. They do not seem to care that fraudulent statements are being made concerning a grant proposal.

At this time we want to thank Cato Cedillo, assistant district manager to Congressman Duncan Hunter's El Cajon office for his help in getting our coalition documents to Chief Counsel Kenneth Ballen.

In closing, we wish to thank the committee for listening to us today, hoping that it will bring about better legislation for our Indian people.

A corruption-free reservation would mean that we may once again live in peace and harmony, which we do not now enjoy.

I was just listening to the man who spoke earlier on behalf of the Rincon Reservation, I wish you would come to my reservation. Some of the Indian people who are living there now have to haul their water. There is no water system, there is no electricity in all the areas. You should come and look at it. It is terrible.

Thank you very much for listening.

[Applause.]

THE CHAIRMAN. I wish I had the time to visit your reservation. I believe that I should tell you that in the last two years I have spent more time in Indian country than I have in my home State of Hawaii. For a politician to do that might be rather foolish, but that is what I have done. I am well aware of shortcomings, the trials and tribulations, and the misery that our Native Americans are experiencing at this time. If it is of any consolation, I can tell you that there are brothers and sisters of yours who live under worse conditions. I spent 1 week in Alaska visiting Native villages above the Arctic Circle where the only means of transportation is by air because there are no roads and even if you wish to go by dog sled, then you risk your life. In those places, there are no toilets, as all of us are accustomed to, they are still using honey buckets. Children have to empty these buckets first thing in the morning before they go to school. The biggest selling item in the store is Pinesol, to clean these buckets so their homes will not smell too bad. So, life is bad here, but living in those villages, where there are no physicians, where there are no dentists, where you have a community health aide with 5 weeks of training—that is rough.

Our next witness is Ms. Patricia Dixon, a member of the Pauma Tribe of Pauma Valley, CA.

**STATEMENT OF PATRICIA DIXON, MEMBER, PAUMA BAND OF
MISSION INDIANS, PAUMA VALLEY, CA**

Ms. DIXON. Good afternoon. My tribal council has directed me to come speak to you about a problem we have with a piece of ground called Mission Reserve.

Approximately 16 years ago this land was proportioned between the Pauma Band of Mission Indians and the Pala Band of Mission Indians. We are neighbors, we have been for a thousand-plus years or so. At the time of patenting of the land, the issue of right-of-way was not directly addressed and in the years that have transpired since then, it has become something of a difficult process to achieve, both with the Forest Service, through private property, and through our neighbor, Pala.

We attempted to do a timber harvest in the early 1970s and we were able to achieve a reasonable negotiation for right-of-way with our neighbor and the Forest Service. The private property owners were not interested. Unfortunately, the timber harvest plan did not completely achieve all its goals and it was terminated at an early date, at which time the right-of-way was also terminated.

As strange as it may sound in 1989 there could be people still innocent and simple, that was very much the case in 1973. Many of our older Indian men and women who negotiated and worked with the process of getting the patent for the Mission Reserve land were not totally cognizant of the need for permanent right-of-way. Ignorance can be bliss at times, but once you wake up, it's awfully painful. We woke up.

We are a very small reservation. We number 258. We are in the heart of Pauma Valley. You have to pass through us to go from Rincon to Pala. It is a very lovely area, and as you've heard from others here today, it is an area that has a lot of rich abundance—citrus, avocados, and so on. We are very small, most of our land is set aside for domestic dwellings. We prefer not to go into any major industries that will pollute the environment, that will cause us a stress on our water tables, and so we're only left with our Mission Reserve. Our Mission Reserve is our only potential for economic development growth and resources. We managed to have an excellent survey done this past year where we have been given very reasonable, attainable goals for economic development based on the contingency of the right-of-way.

We had a fire in this area, which you may have heard of, in October 1987, and 70 percent of the virgin growth that we reforested after the first timber harvest was destroyed, roughly 30 percent of timber that had not been harvested was destroyed. A high percentage of the land that is left is extremely steep terrain and diseased trees. We received some assistance from the Bureau in reseeding this year. We asked them not to reseed. We engaged the private services of the Hoopa Forest Reserve people who, in our estimation and recommendations from others who told us they were very good, and were advised that it would not be a good idea. The seedlings would be too small, they were grown too late, and they would probably die in the heat of the summer. They should be planted by November and we didn't start until mid-February of this year. We were not able to stop it.

We also have no money for seedlings for the next 2 to 3 years which are needed if we're going to have regrowth in the mountain area.

In addition to that, one of our most severe aggravations is that everyone around us can get onto our property but we can't. Yet, when we do get permission to go in, we see trees cut, we see evidence of trespassers, we've seen hunters, and we've even had people greet us and want to know who we are, and we say we own it. The sheriff has tried to help but it is very remote and they can't really patrol, even though they have our permission to do so.

Several years ago, before a California Task Commission hearing of the Sacramento BIA, Maurice Babby headed it, we testified to the problem and he expressed concern and interest. For the past 6 years we have sent letters asking what can we do, how can we help you to solve our problem. As of this date, we have received nothing.

We desire, as so many other tribes do, to be economically independent. We have a resource area, we have a workable plan. Negotiation is not against our principle, but our feeling is very strong that we will negotiate only to do so where we come out ahead. Unfortunately, our neighbors feel equally strong in that regard.

Our request from this committee is to provide us with some kind of expertise, assistance, and, if necessary, some kind of exception by Congress to grant us a right-of-way. We are not intent on developing major recreational purposes and we're not intent on developing anything that would harm the environment or destroy property. We just want to become free from the grant process and give our children a future.

Thank you for your time.

[Prepared statement of Ms. Dixon appears in appendix.]

The CHAIRMAN. If you would communicate with the committee in greater detail about this right-of-way problem, we will see what can be done about it.

Ms. DIXON. I'd be glad to.

The CHAIRMAN. Your recitation reminded me of how some of the treaties in California were signed. History shows that there were several treaties signed by Indian leaders who had no understanding of the English language and there were no translators around, so they were just told to sign. That is how some of these lands were lost.

Our next witness is the chairman of the Intertribal Council of Riverside, the Honorable Luke Madrigall.

STATEMENT OF CHAIRMAN LUKE MADRIGALL, CHAIRMAN, INTER-TRIBAL COUNCIL, RIVERSIDE, CA

Mr. MADRIGALL. Thank you, Mr. Chairman. I am very happy to appear today before the committee. About 1 year ago, upon the formation of our Inter-Tribal Council, we requested this committee to visit California and look into the issues and concerns that have been brought forth to us by the Indian communities, by students and staff at Mission Indian boarding school in Riverside, CA. So we are very happy to have this opportunity to speak to you today. I am also happy to be here to talk for the tribes and inform the committee of issues of great concern in Sherman.

The Senate Select Committee on Indian Affairs purpose, as I understand it, is to look into mismanagement of the BIA. I understand you're looking at tribal corruption as well and I think that Sherman High School is a case in point because of administrative corruption there currently. There are drugs, alcohol, reports of rape, reports of contributing to the delinquency of minors. We have gone before the principal of Sherman High School, Joe Frazier, and Pete Soto, Phoenix area programs administrator, and our pleas have fallen on deaf ears. So we request that the Senate Select Committee on Indian Affairs look into this matter. Our committee is prepared to work with you, to give you further information about the wrong doings which are bordering on criminal activities.

The CHAIRMAN. Are you telling us that the authorities at Sherman are involved in rape?

Mr. MADRIGALL. No, sir; Well, staff people have reports of that occurring there, sir.

The CHAIRMAN. And the use of drugs?

Mr. MADRIGALL. And use of drugs, alcohol—

The CHAIRMAN. These are faculty members?

Mr. MADRIGALL. Well, we're talking about the one leaving, and we do have some information about him.

The CHAIRMAN. Have you discussed this matter with law enforcement agencies?

Mr. MADRIGALL. Yes; we have, Senator. It has been very difficult to get people to come forward. At this point, we've been at it for about 1 year and now we do have some people who are willing to testify before this committee because of congressional immunity through this committee.

In addition to this we feel that because of what's happened in Sherman, we need to contract the school under 93-638. We are currently advocating for the tribes of California. Our goal is to have northern, central, and Southern representation on a school board which will contract the schools. It seems to be a necessity because of responsibilities the BIA has been violating and these things are being allowed to go on.

The Indian tribes' only request is a Constitution right of a safe environment in which their children can be educated. That is just not happening here.

In summary, there are two major points I would like to emphasize and they are that this committee investigate the information that we do have. In addition to this, help us to contract the Sherman Indian High School. Under Public Law 93-638, tribes need only to request of the Bureau and the Bureau should provide a system of whatever form is necessary. In this case, that request is being hindered by bureaucratic roadblocks. The Sherman Ad Hoc Committee several years ago submitted a comprehensive report in which the question arose of jurisdictional change. We need to overcome that bureaucratic roadblock and do whatever is necessary to contract so we can educate our children safely and adequately, and so we may exercise our rights to Indian Self Determination under Public Law 93-638.

Thank you for your time.

[Prepared statement of Mr. Madrigall appears in appendix.]

The CHAIRMAN. We will look into this matter. If you have the information, would you share it with us?

Mr. MADRIGALL. I have submitted some documentation. If you need to meet with this committee in private or on another date, we would be glad to discuss it with you further.

The CHAIRMAN. I will direct some of our staff people to call upon you.

Our next witness is the spokesperson of the Pechanga Band of Luiseno Indians, the Honorable Jennie Miranda.

**STATEMENT OF HON. JENNIE MIRANDA, CHAIRPERSON,
PECHANGA BAND OF LUISENO INDIANS, TEMECULA, CA**

Ms. MIRANDA. Good afternoon, Senator Inouye, committee members, ladies and gentlemen.

I am the chairperson for the Pechanga Indian Reservation. This testimony is brought forth in their behalf. We are the Luiseno Band that is adjacent to a small community call Temecula.

The first issue that I want to bring to your attention regards concerns for that claims and trust responsibilities wherein the BIA has failed to protect our interests. An occurrence that took place approximately 11 years ago, the Pechanga Band entered into having to file a civil lawsuit to recover title for properties that were originally included as part of the reservation boundaries, which was executed under Executive order signed by President Chester Arthur on June 27, 1882.

In 1978 the Pechanga Tribal Council first acquired and they examined the Executive order and the trust patents of its reservation and discovered that a discrepancy existed for which they could not account. Additional land had been reserved but not trusted to the reservation. Upon investigation of the discrepancy, the best available evidence indicated that the section in question had obtained a homestead claim that had been disallowed by the General Land Office as fraudulent. However, the Government had not served the defrauder with the Federal papers in this case and at a later date the claimant sold the land even though he did not have clear title. By 1978, the land had just recently been sold to a large development corporation. During the sale the original cloud for this title was obviously ignored. The Pechanga Band brought suit to recover the land. The case was decided not on the validity of the title in its original state, but on the fact that modern land owners were making decisions based on the belief that they had bought clear title. In other words, the court decided that different principles would be applied to land stolen from Indian reservations and that such land would not be recoverable. The court to this day is still selectively using an applying laws relating to stolen land if Indians are involved.

The United States was not part of this litigation. As such, the BIA failed to fulfill its role of its trust responsibility by entering or assisting the Pechanga Band during this litigation. The Band lost the land claim and was denied a hearing to have the case brought before the Supreme Court. The BIA was completely lax in their role for protecting our land base, land that was reserved to be part of the Pechanga Indian Reservation.

It seems as if the BIA either does not understand its trust responsibility role or has failed to make it a priority for the tribes in Southern California. We realize it is too late to retrieve the property. Therefore, the position that we're taking is to bring this issue before your committee in reference to the negligence and the consequence of that negligence to our land base.

The second issue is the water rights protection. Right now the Pechanga Indian Reservation has been confronted with a lot of potential development, so much so that we are going to be ranging from a zero population growth rate to approximately in excess of 60,000 within the next 5 years, 10 years to be completed. The concern that we have expressed in all our opposition to the proposed development as they are going through the county level for approval for permits and what have you is that there today has not been enough information to substantiate the impact that it is going to have on our water resource, both our water quality and our water quantity.

Do not let our intent be misconstrued. We realize that we cannot halt development—this is not the intent provided that the development is meeting its goals and is not at our expense—the expense of our water loss and water quality.

To date, basically what we're looking at is we're calling upon the committee so that we do not have a repeat of what has been happening historically, that is, we do not want our situation to go into the court. We have a tendency historically speaking to lose our battles. We're not here to stop the future development that is going to be surrounding us. We only want to assure that your committee can work on our behalf to keep the BIA involved and taking notice of the situation as it develops. This is a preventive measure, it is not a situation right now where the problems currently exists but we know now what will happen once the residency is established. When you're looking at a population in excess of 6,000 versus a population of 800 strong, which is the total of our membership, we will have no voice. There is no way that we see that our needs will be met. There are rights by which the establishment of this reservation was guaranteed, as well as aboriginal rights carried through as we are descendants of the Luiseno Indians, and we call upon and expect that those rights be protected and ensured through the efforts of the BIA.

In closing, I would like to read a very brief excerpt written by Frank Gennario which expresses the sentiment that I have hoped to express at this time. It simply reads as follows:

There has been a lot said about the sacredness of our land, which is our body, and the values of our culture, which is our sole, but water is the blood of our tribes and if its life-giving flow is stopped, or it is polluted, all else will die and many thousands of years of our communal existence will come to an end.

Thank you very much.

The CHAIRMAN. If you will provide us with further information, I will certainly look into it.

Ms. MIRANDA. Thank you.

The CHAIRMAN. Our next witness is the Board Chairman, Riverside, San Bernardino County Indian Health Council, Mr. Patrick Patencio.

STATEMENT OF PATRICK PATENCIO, BOARD CHAIRMAN, RIVERSIDE, SAN BERNARDINO COUNTY INDIAN HEALTH, BANNING, CA

Mr. PATENCIO. I have submitted my testimony to the committee for the record in the interest of time.

The CHAIRMAN. Well, we will study your presentation.

Mr. PATENCIO. Thank you.

The CHAIRMAN. Thank you very much.

[Prepared statement of Mr. Patencio appears in appendix.]

The CHAIRMAN. Our next witness is a member of the Quinault Tribe of Riverside, CA, Mr. Robert Jackson.

STATEMENT OF ROBERT JACKSON, MEMBER, QUINAULT TRIBE, RIVERSIDE, CA

Mr. JACKSON. Thank you, Mr. Chairman. My name is Robert Jackson. I am an enrolled Quinault Indian from the Northwest Tribe. My grandfather was chairman, my uncle was chairman, go all the way back to my great-grandfather, who was the original treaty signer. For myself, I have relocated to California. Prior to that I was chairman of our tribe of Quinaults in the Northwest.

I wish to speak to some issues of national concern. I realize these issues are primarily concerned with California. I believe that there needs to be a wholesale change in the Federal Government's method of dealing with Indians. The Bureau needs to be moved into the State Department. Funding should be by block grant rather than by particular agencies. I think that the resources should be consolidated and that tribes be given the opportunity to negotiate as regional organizations. I think that oversight is necessary. There has been misuse of tribal funds and of Federal money.

A couple of things that I think would be of benefit would be for Indian tribal organizations to set up an accreditation committee that would certify Indian programs. The membership would be made up primarily of Indians. It would be regionalized, where funds would be allocated from taxation and natural resources. If you lived in Washington State, tribes, our tribe in particular, 6 million acres were seeded for an exchange of 200,000 acres. In the process a survey of timber in the region seeded for Bray's Harbour County was 16 billion board feet. If you add fisheries resources, if you add mineral rights, if you have oil resources, if you add property transfer excise taxes, the volume of money that could be created to set up a permanent trust fund for Indian trust responsibility could be substantial. You could bypass the steps of going to Congress for yearly allocations. I believe it would fulfill the trust needs of Indians.

I also believe that Indian laws should be administered by Indian organizations. A separate branch of the Justice Department should set up a legal system, a set of judges who are knowledgeable on Indian laws. That much as your American Bar Association certifies judges, a tribal bar association be established and also certify through the law school of judges, to certify oversight and legislation.

I believe also a State Department should be established, offices in Governors' offices to deal with Indian affairs, so the United States

and States dealing with Indian tribes as nations. I believe this may have been brought up in other areas. I bring it up again for the record.

Some specific issues on land use. For my own tribe, in 1983 I petitioned the Bureau to have some timber logged that was owned by my grandmother and my great-grandmother. The letter I received from the Bureau is that there is a 3-year waiting period. So 3 years ago the Bureau did a cruise and a survey and they said there were approximately 500,000 board feet of timber. We hired an independent and he assessed that there were 750,000 board feet of timber. Logging costs were established at \$160 per 1,000. The consultant that we hired recommended \$110 per 1,000. This sort of performance by the Bureau is substandard. That it should take 5 to 6 years to do a logging contract is prohibitive and the amount of revenue lost from interest is unacceptable.

I have other things I would like to say, but I see my time is up. I'd be glad to meet with some of your staff.

Thank you.

The CHAIRMAN. I thank you very much, Mr. Jackson. Staff will be calling upon you at a later time.

Our next witness is the director of the Rincon Indian Education Center in Valley Center, Ms. Molly Rounds.

STATEMENT OF MOLLY ROUNDS, DIRECTOR, RINCON INDIAN EDUCATION CENTER, VALLEY CENTER, CA

Ms. ROUNDS. Good afternoon, Senator. My name is Molly Rounds. I am a member of the Rincon Tribal Council. I am also the director of the Rincon Indian Educational Center, which is located on our reservation.

In 1974, the Governor signed legislation which established the Indian Centers in California. Presently there are 12 centers located throughout the State, two in San Diego County, one of which is located in the center of Rincon. The need for the centers was based upon the fact that Indian children were not succeeding in California public schools. This is evidenced by the low academic achievement in all grade levels, the high school drop-out rate, and the few who continue their education beyond high school.

In spite of the efforts of many deeply committed people over the years, we have been unable to accomplish our goal of reducing our drop-out rate. Even so, the Indian centers of California are due to sunset this year in June. New legislation has been presented to the Assembly but it offers minimal support to our educational goals that we have for our children.

We are presently funded by the State of California and the Department of Education. Our center operates a part-time program, we are serving 350 students within the school system, we cover seven schools and four school districts in the north counties. The ratio of our students to our tutors is we average 50 students per tutor, which is not an acceptable ratio, it makes the program very ineffective.

Federal funds available to us are very limited. Foundation grants do not really exist for us. The school districts do receive two types of funding on our behalf. Title IV funds allow school districts to re-

ceive \$133 per Indian child in order to develop Indian programs. Typically, this averages out to about \$60,000 per year. It is not enough to hire a school teacher or even to hire our own professionals. Last year one of our school districts refused to apply for title IV grant and the reason given was that it was too much paperwork and was not worth the amount of money that they would receive. The center then tried to apply for these funds and we were told that we were not eligible, the school district has to apply and they are not receiving any new applications this year.

Moneys received by school districts are Impact Aid, which is made available by Public Law 874. This allows school districts affected by Indian reservations to receive funds from property taxes. This means that any child living within boundaries of the reservation, regardless of race, the school receives money for each child. Last year in two of our school districts Impact Aid monies amounted to over \$500,000. This money is not available to us directly, it is deposited into a general fund in our school district. Yet these two same school districts were identified by the Department of Education as being out of compliance with regard to their not receiving proper input from tribal councils and guarantee children.

The Indian has been called a "vanishing breed" and we feel in our area we truly are vanishing due to the area we live in. With the arrival of agricultural workers, we are in danger of being of overshadowed by an ever increasing migrant population for which special programs are constantly being created. The Indian programs that are developed within the schools are not on the same scale as the migrant program and they offer us minimal support. We're told that Indian children are not assimilating into the main stream, our children cannot assimilate into bilingual programs. We need our own special programs which have our own culture and would meet our own unique special needs. We are asking the committee for your assistance in making Federal funds more available in our school districts in order that we may adequately educate our Indian students.

Thank you.

[Prepared statement of Ms. Rounds appears in appendix.]

The CHAIRMAN. Thank you very much for your statement. We will look over that problem.

Our next witness is Mr. Curtiss Martin of the Colorado River Indian Reservation.

STATEMENT OF CURTISS MARTIN, SR., TRIBAL COUNCIL MEMBER, COLORADO RIVER INDIAN TRIBES AND DIRECTOR OF THE COLORADO RIVER INDIAN TRIBAL MUSEUM ACCOMPANIED BY WELDON JOHNSON, TRIBAL ARCHAEOLOGIST; MARY LOU BROWN, TRIBAL ELDER

Mr. MARTIN. Thank you Mr. Chairman and members of the committee. My name is Curtiss Martin. I am a tribal council member of the Colorado Tribes as well as the director for the tribal museum. I have brought several individuals with me today and they are Weldon Johnson, our archaeologist for the tribe, and Mary Lou Brown, a tribal elder.

I would like to speak today and bring a few issues to mind that deal with cultural resources and pending legislation. As you know, the Colorado River Tribes spans the Colorado River in Arizona and California, approximately 44,000 acres being on the California side of the river. For many years the Colorado River Tribes has asserted its interest in the traditional lands of the Mohave and Chemeguevi Indians. We are aware of ever-increasing infringing of development and of uses of the desert regions for turning them into dumping grounds—nuclear waste, hazardous waste, landfills.

We would also like to bring to mind that we are aware of several pieces of legislation, particularly one bill proposed by Representative Udall, which is H.R. 1546. This bill would provide a greater link in the area for dealing with Native American religion. Native American religion, as everyone who is of Indian descent will understand, cannot separate the land from religion. It deals with cultural resources and it deals with land. It cannot be separated. We feel that continuing development and looking to the desert regions as a dumping ground, specifically in Ward Valley area, which has been almost entirely designated as the low level radioactive waste site, makes it necessary that legislation be enacted to safeguard our cultural resource and religious freedoms.

The Fort Mohave, Chemehuevi, the Colorado River Tribes, along with the Pechong and Cocopah, have joined together to form a River Coalition that will present a resolution to the committee at a later date expressing our opposition to this site being selected. The site itself is located in the Mojave desert region, 23 miles west of Needles, CA and 1 mile south of Interstate 40. U.S. Ecology, a California corporation, is the "license designee" for the State of California which is obligated under Federal law to develop a low level radioactive waste disposal facility. Ward Valley is on land presently controlled by the Bureau of Land Management and also is designated as a Moderate Use Area. A Moderate Use Area as defined by BLM may be not used for the disposal of hazardous waste except in limited circumstances.

Just this week we have learned from the BIA that the State of California has filed a Notice of Selection of the Indemnity Lands under 43 U.S.C. 851-873. Apparently, if a transfer occurs pursuant to that law, California will be free to use the site for any purpose, notwithstanding the California Desert Conservation Area Plan or AIRFA, which will no longer apply. The Bureau of Land Management has a trust responsibility to Indian tribes, and the contemplated land transfer for a use which will threaten our cultural existence is inconsistent with this responsibility. Had we been made aware of California's intention to obtain the Ward Valley site under 43 U.S.C., and thereby circumvent AIRFA and the California Desert Conservation Area Plan, we would have prevailed upon BLM to, in accordance with its trust responsibility, remove the site from those lands available for transfer. If the AIRFA amendments were law today, perhaps we would have a remedy, and while we continue to oppose the site by every legal and other means available to us, our already limited resources make an effective challenge very difficult and it is likely that the radioactive waste site will be located at Ward Valley. The various laws pertaining to Fed-

eral lands contain loopholes which permit Federal, State, and local governments to ignore the concerns of Native Americans.

Another example of the problems associated with piecemeal legislation in the area of Native American cultural resource protection and religious freedom is the Campbell Collection, a collection of Native American cultural resources which dates from prehistoric times and is presently controlled by the U.S. Park Service. The collection is presently located in the Southern California region, where we would like to keep it, rather than have the Campbell Collection moved to the Western Conservation Center in Arizona, as the U.S. Park Service plans to do. We would urge that it be kept in Southern California with a Federal repository being established to be used by everyone to house archaeological material, cultural resources, and other materials, which would give local tribes with whom such materials are directly linked the opportunity to redocument their historical significance and would be a gesture of respect shown to the Indian tribes of Southern California.

With that, Mr. Chairman, I'd like to thank you for your time. We offer our assistance in helping in any way we can to protect the area.

[Prepared statement of Mr. Martin appears in appendix.]

The CHAIRMAN. We will be waiting for the documentation you will be sending us. When we get it we will study it and call upon you.

Our next witness represents the Coalition of Indian Rights of the Barona Indian Reservation, Mr. Steve Banegas.

STATEMENT OF STEVE BANEGAS, COALITION OF INDIAN RIGHTS, BARONA INDIAN RESERVATION, WARNER SPRINGS, CA

Mr. BANEGAS. The Honorable Daniel K. Inouye, my name is Steve Banegas. I am speaking for the Concerned Citizens of the Barona Indian Reservation which is located near Lakeside, CA. We, too, are governed by customs and traditions.

From July 15, 1985 onward we have collected signatures from Southern and Northern California Indians and non-Indian taxpayers petitioning to abolish the BIA, the National Tribal Chairmen's Association in Washington, DC, and the Southern California Tribal Chairmen's Association headquartered in Rincon, CA.

We feel those organizations are the cause of the problems and unrest currently existing in our reservation.

It is very important to us to have the *Martinez* decision amended so that we may have a chance to be heard in a court of law.

Previously, we have sent your committee documents on the *Osuna* case concerning Barona, and we are asking you to see that she will be punished to the fullest extent of the law.

We would like to see changes made regarding the Public Law 93-638 Self-Determination grants. Over a period of 13 years, no strengthening of tribal governments was visible. No improvements were made in our reservation.

We are strongly against the throw-away projects like strip mining, toxic dump sites, land fills, the storing of old tires, juvenile delinquent and prison camps that are being pushed on our reserva-

tion with the sanction of the tribal chairman, the tribal council, and the BIA.

We would like to see new guidelines established concerning the voting procedures on our reservation. A trustworthy official needs to oversee the voting to stop the ballot stuffing and other illegal schemes.

Honest tribal chairmen are hard to find in our part of the country also because simply the BIA doesn't ask for accountability.

Ours is one of the reservations that has bingo on it and I do not believe it is a solution to our economic problems. Instead of making money, we are always in debt. Bingo also causes friction amongst tribal members. But that seems to be the way the tribal government likes it, it seems it would prefer to create chaos and confusion.

Since we weren't notified by our tribal government of your meeting dates and rules on this hearing, we are asking that you mail copies of all correspondence and notifications to our Coalition for Indian Rights at PO Box 252, Warner Springs, CA 92086. The secretary is Edith Segundo and she will keep us informed.

I would like to thank you for listening to us today and hope that new legislation will provide better living conditions for us and our children on the reservation.

Thank you.

The CHAIRMAN. If you would give your address again to the clerk, we will be certain to include it in our records.

Our next witness is Mr. Lorenzo Clark, a member of the Santa Ysabel Band of Mission Indians in Southern California.

**STATEMENT OF LORENZO CLARK, MEMBER, SANTA YSABEL
BAND OF MISSION INDIANS OF SOUTHERN CALIFORNIA**

Mr. CLARK. Thank you Mr. Chairman. I want to welcome you to Escondido. In the interest of time, I will be brief in my remarks.

I want to discuss some general housing problems throughout California and bring to your attention some statistical information.

The BIA conducted a housing survey in 1987 of 186,000 Indian households across the country. The survey indicated that of the 186,000 housing units, 93,000 new or substantially rehabilitated homes were required.

The current situation on Indian reservations for some of us does not allow us to lease our land, a requirement by HUD and by the Bureau in some instances. Therefore, it really creates a larger problem.

Although a new law has been enacted, Public Law 100-358, and provides a new vehicle for solving some of the problems, the Federal Government will need to provide additional programs and funding to adequately meet the urgent housing need and it is not quite clear what the appropriations side of the newly enacted Indian Housing Act will look like.

I think that in order to resolve these problems, we've really got to take a look at alternative approaches to meet the critical housing needs. The National Indian Housing Association has indicated that there will be an additional 6,000 housing units needed each year and right now only 2,000 housing units are provided, and

they're on the chopping block right now in the Housing and Urban Development budget cuts.

I would just like for you to recognize the need and how critical the housing crisis is not only in California, but across the Nation.

I do have more information concerning this matter. I have submitted testimony in writing for your consideration.

Thank you.

[Prepared statement of Mr. Clark appears in appendix.]

The CHAIRMAN. Thank you very much Mr. Clark.

Our final witness this afternoon is representing the All Mission Indian Housing Authority, Mr. Art Bunce.

STATEMENT OF ART BUNCE, ALL MISSION INDIAN HOUSING AUTHORITY, ESCONDIDO, CA

Mr. BUNCE. Good afternoon, Senator. I want to thank you for allowing me the opportunity to address the committee on short notice.

As I believe you are aware, the All Mission Indian Housing Authority is an umbrella housing authority serving most of those tribes represented in this room. The governing body of the housing authority is its Board of Commissioners, composed of two Commissioners from each of the member reservations. The policy of that Board of Commissioners reflects the views and the sentiments of the great majority of people on the reservation.

The housing authority has for a period of 10 years been using either evictions or the threat of evictions as an inducement to get Indian families to meet their rent obligations. The housing authority does this quite rarely as a condition of its continued funding from HUD. If rent obligations were the only difficulty, the housing authority would not be speaking to you today. The housing authority does not wish to evict anyone in general. During the last 10 years the housing authority has filed about 280 eviction actions in Federal court but has only evicted 4 families in 10 years. The housing authority's goal is to use the threat of eviction to make people meet their obligations, not to actually throw them out. But that's with regard to rent only.

Something else has happened recently that's different. Within the last 6 months to 1 year northern San Diego County, in particular, has become what many have described as the methamphetamine capital of the United States. There are busts going on at a pace faster than even the county hazardous waste materials crews can keep up with them. Several of them have occurred on the reservations, some have even occurred in housing provided by the housing authority.

The Board of the housing authority is adamantly against drug use in general and particularly in HUD-financed homes. Taxpayer dollars should not be used to subsidize this kind of activity. Even though the housing authority is very lenient when it comes to evictions with regard to rent controls, it is very strict with drug use, manufacture, and sales in Indian homes.

One great difficulty the housing authority has in this regard is that the eviction procedure when actually used in earnest is extremely cumbersome. The reason for that is relatively simple.

There are no tribal courts in California, except I believe on the Hoopa Reservation on the Colorado River, there are no local tribal courts at all. The State courts cannot handle such matters because there is a provision in Public Law 280 that prohibits them from doing so. That leaves only the Federal courts. The Federal courts are overworked, understaffed, and the few cases the housing authority has brought for evictions in drug related cases are taking inordinate amounts of time. Some of them have been pending for about 9 months so far and we haven't even gotten to the stage of pre-trial conference yet. If that continues, Mr. Chairman, the community will continue to have to endure the danger posed by drug operations, some operating in brazen openness on the reservation.

What the housing authority would like to suggest to the committee for its consideration is accelerating the means of determining whether drug use, manufacture, sales are truly happening in these houses and, if so, kicking out those involved. The current Federal procedure is too expensive and time consuming. The danger continues while the matter is litigated. The housing authority would suggest to the committee to consider either an amendment to Public Law 280, an amendment to the Federal Rules of Civil Procedure, or some other method for summary adjudication of cases like this where there really is a clear and present danger.

The CHAIRMAN. I thank you very much. As I indicated to you at this morning's meeting with the housing authority, we will most certainly look into the possibility of amending the Rules of Evidence and the Rules of Procedure.

Thank you very much.

This afternoon we have heard testimony from 29 persons discussing various problems confronting Native Americans in California. The story told is a tragic one. So I would like to end this hearing with a little more positive note.

Two years ago, in doing some of my investigations I realized that something was woefully lacking in our Nation's Capital. Those of you who have visited our Nation's Capital will recall that it is sometimes called the city of monuments because there are so many monuments and statues in Washington, DC. According to the Bureau of Parks, there are over 400 statues and monuments in the city of Washington. In our Nation's Capitol alone there are about 200. Of the 400-plus monuments and statues, there are only two that honor Indians, both of them gifts of the State of Oklahoma. One is the statue of Sequoia, the great Cherokee educator and scholar, and the other is Will Rogers, a Cherokee and America's greatest humorist.

As some of you are aware, as a footnote to the Indian Wars, there was a surgeon general of the U.S. Army who was considered by some to be a very eminent scientist. He was then conducting a survey of Indian crania because it was felt during that period that the larger your cranial capacity, the more intelligent you were. So he sent a directive to the officers and men in the field and requested that they gather skeletal remains and skulls of Indians and ship them off to Washington so he could take measurements. So many were sent that the U.S. Army decided enough was enough and stopped the project. Hundreds were collected. In time, since they did not have any storage area, the Army turned them over to the

Smithsonian. Today in the Smithsonian Institution, which is located in our Nation's Capital, together with their own collection of American Indian skeletal remains and skulls, we have over 18,500 skulls and skeletal remains of Native Americans. Of that number, 4,000 are from Alaska. Just pause and think about that. Imagine any museum in this world maintaining a collection of 18,500 skulls and skeletal remains of any other ethnic group—of British men and women, or Chinese, or Russian. There would be a great uproar in this world if someone dug up the grave of my great-great-grandfather that would be grave robbery. But apparently when they dug up the graves of your great-great-grandfathers it was in the name of archeology and anthropology. We are going to put a stop to that.

I am happy to report that after 2 years of intensive negotiating, we will have a monument for Indians in Washington, DC. It will be a massive monument. It will be built on the Mall of the Capitol. There is only one space left, the most precious property of the U.S. Government, it is closest to the Capitol. We are going to build a museum there for Indians.

With that I would like to thank all of you for joining me this afternoon and sharing your wisdom with us—as we in Hawaii would say, “sharing your manao.” It is important that your words be made known to us because from your words will come solutions to your problems. That I will guarantee you. We will be in communication with you as we proceed in analyzing your statements and studying them. You may be assured that this will not be just a hearing to receive testimony and file it away.

So with that, this hearing is adjourned.

[Applause.]

[Whereupon, at 4:11 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

BEFORE THE SENATE SELECT COMMITTEE
ON INDIAN AFFAIRS

CALIFORNIA FIELD HEARING

at

Escondido, California
April 27, 1989

TESTIMONY

Submitted by:

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Mr. Chairman and Members of the Committee:

We would like to thank you for holding these hearings in California and giving us the opportunity to appear before you today.

This testimony is submitted by Riverside-San Bernardino County Indian Health, Inc., Indian Health Council, Inc., and Southern Indian Health Council. Appearing today are Rose Hatfield, Board Chair of Indian Health Council, Inc., Frances Shaw, Board Chair of Southern Indian Health Council, and J. Patrick Patencio, Board Chair of Riverside-San Bernardino County Indian Health, Inc. Appearing with us is our attorney, Barbara Karshmer. Each of our programs is a Tribally-controlled, Indian-operated health program providing comprehensive ambulatory health care to Indians residing on or near twenty-nine Indian reservations in the rural/remote areas of southern California through contracts with the Indian Health Service pursuant to Public Law 93-638. Together, these three programs have a service population of approximately 30,000 Indians.

We are here today to request that the Committee give special consideration to the needs of the California Indians by sponsoring legislation to provide specific funding for the needs of California Indians whose needs have historically been ignored.

Although we are most familiar with the needs for health care and are appearing today with that specific issue as our focus, we are acutely aware, as Tribal leaders, that the overall needs of our Tribes and Tribal members are no less acute in the areas of other federal services which have not been provided for

California Indians at the same level and degree as for Indians elsewhere in the United States.

I. HEALTH CARE HISTORY AND FUNDING IN CALIFORNIA.

The history of health care in California is the same as that for other services within the State insofar as federal funding is concerned. That history is one of neglect and underservice dating back to the early 1950's and the pinnacle of the federal termination era. This country's ambivalence and inconsistency toward Indians and Indian policy has impacted the California Indians more directly than any other group.

Historically the treatment of Indian people nationwide has oscillated between two policy extremes. The first had its basis in the theory that Indian Tribes have a unique status as sovereigns and that the United States has a special fiduciary or trust responsibility toward Indians. Central to this philosophy was the notion that the states were not to be involved in Indian affairs and should not be given jurisdiction over Indian lands. The second and opposite federal policy centered around the assimilation of the Indian people through granting the states jurisdiction over Indian lands and through stressing that Indians enjoy the same rights as other state residents. It is this latter policy that has had its most devastating impact on California Indians within our own lifetimes. In order to understand why this was possible however, it helps to understand the early history of California.

At the time of the entry of the white man into the area which later became California, more than 133,000 Indians were residing here. Their cultures flourished due to the abundance of

natural food sources and the favorable climatic conditions. However, in the mid-1800's Indians were nearly overwhelmed by the tremendous numbers of aliens coming into all parts of California at nearly the same time, largely as a result of the gold rush of 1848. For the Indians, this massive migration westward began to create serious problems in obtaining adequate traditional food supplies due to the conversion of fertile valleys into farmlands, the use of the foothills for cattle ranching, and the pollution of streams. Moreover, the new Anglo-American system had no place for the Indians and resolved any conflicts with the Indians either by outright extermination or segregation on reservations.

Because of the massive migration westward, California soon became faced with the problem faced by other western states that had been recently settled, namely: keeping a sufficient supply of public lands available. The solution chosen to deal with the problem was for Congress to send commissioners to enter into treaties with the California Indians regarding the territory those Indians occupied.

In 1851, the federal agents negotiated eighteen (18) treaties with California Tribes. All of the treaties had as their major and central provision the surrender of 'the Indians' traditional lands in exchange for small reservations elsewhere.

When the California Legislature learned of the terms of the treaties, the State formally protested the granting of any lands at all to the Indians. As a result, the United States Senate failed and refused to ratify these treaties when the treaties were brought before it in 1852.

The Indians, thus, received the inequitable treatment that was by then typical in the government's dealings with them, for

[t]he Indians, however, had already begun performance of their part of the agreement. Urged by government officials to anticipate the approval of the treaties they had started on the long journey to the proposed reservations. Now they found themselves in the unfortunate position of having surrendered their home for lands which were already occupied by settlers and regarding which the Federal Government showed no willingness to take action.

Cohen, Felix, Handbook of Federal Indian Law, Univ. of N.M. Press, Albuquerque (1952), p. 62.

The result was that many California Indians were forever left landless.

By the late nineteenth century, many of the Indian Tribes in California were involuntarily segregated from the rest of society and living on Indian reservations established through special acts such as the Mission Indian Relief Act (under which our member Tribes received reservations) and through Presidential Proclamations. Other Tribes remained homeless.

Through the remainder of the late 1800's and the first half of the twentieth century, California Indians were treated, as were Indians elsewhere, with the same ambivalent federal policies which swung from the assimilationist philosophy of the General Allotment Act of 1887 (24 Stat. 388, 15 U.S.C. §§331, et seq.) to the policy of strengthening Tribal governments and the continuation of the special status of Indians embodied in the Indian Reorganization Act of 1934.

Then in the early 1950's, Congress once again began enacting "termination" legislation that emphasized the assimilation of the Indian people, the end of the special status of Indians and the granting of jurisdiction over the reservations to the states. Federal policy during the height of this era was geared toward ending the special status of Indians in general and California Indians in particular. In California, federal services were quickly phased out and reservations sold with the proceeds distributed to Tribal members. Simultaneously, California was given a limited measure of civil and full criminal jurisdiction over individual reservation Indians, all in an effort to assimilate and integrate Indians into the dominant non-Indian society within a generation.

As a result of this philosophy, a number of Tribes in California (and in several other states) had their special status ended and their lands sold. And, most important, all federal health services for Indians were withdrawn from California as were most services provided by the Bureau of Indian Affairs.

Although the termination policies of the 1950's were clearly repudiated by 1968, the Federal government did little to provide the Indians of California with the health services which they so desperately needed. Nor did the government come back and provide the same level and scope of services through the Bureau of Indian Affairs which they provide to Indians elsewhere in the United States.

All reports on the health status of Indians in California during the 1960's and 1970's indicated that the health of Indians had seriously deteriorated and was the lowest of any segment of

the population. Even the American Indian Policy Review Commission recognized that IHS had breached its responsibility to provide health care services to the California Indians. In commenting on the Indian health situation in California, the report stated that, "The abrogation of federal responsibility to California Indians represents one of the most flagrant examples of failed federal responsibility." Report on Indian Health, Task Force Six: Indian Health; Final Report to the American Indian Policy Review Commission, U.S. GPO, Washington (1976), p. 162.

In fact, it was not until the Rincon Band of Mission Indians, in a class action on behalf of all California Indians, brought suit against IHS and won that suit in both federal district court and the U.S. Court of Appeals for the Ninth Circuit that the situation changed. See, Rincon Band of Mission Indians v. Harris, 618 F.2d 569 (9th Cir., 1980). After that judgment became final in 1980, we went to Congress to request added funding for California Indians for health care to implement the Court's decision that California Indians must be provided the same level and scope of services as Indians elsewhere in the U.S. As a result of our request, the Equity Fund was established by the Appropriations Committee which provided supplemental monies to be used by IHS to fund California Indians and all other underfunded groups. Despite the tremendous gains we made in the last eight years in providing health care through the Equity Funds, California Indians still lag behind all other areas nationwide in terms of overall funding levels. The Indian Health Care Improvement Fund of the newly enacted Indian Health Care Improvement Act also addresses the problem of underfunding.

However, the manner in which the Indian Health Service has distributed these funds has not moved California Indians up from the very lowest level of all areas nationwide. Specifically, IHS has distributed its funding among a very large group of Indians nationwide, including those who are less in need than we are. Thus, it has not made the significant strides for California Indians that we believe we were intended by these funding mechanisms.

Because of our inability in the past nine years to overcome these funding problems due, we believe, to bureaucratic inertia and obstructionism, we are here today to request that special legislation be passed to eliminate the inequities which California Indians have been subject to for the past forty years since the time of the termination era.

II. HEALTH CARE FACILITIES NEEDS.

Nowhere are our needs for health care funding more obvious than in the area of facilities construction, for IHS has never constructed any health facilities in California. Instead, all health services are delivered out of Tribally-owned or leased facilities, most of which are severely inadequate. In fact, the facilities needs of California Indians have never been seriously considered because all of our health programs are Tribally-operated, rather than operated by IHS. IHS has admitted to the Appropriations Committees that its construction priority system is biased against Tribally-operated programs and in favor of IHS-operated direct care facilities, because IHS has disparate standards for construction of Tribally-operated facilities which make it far more difficult for Tribally-operated programs to

obtain construction funds. In the face of this insurmountable obstacle, we are forced to spend our health service delivery money on leasing trailers from which to deliver health care, health care which we are unable to deliver effectively or efficiently due to the lack of appropriate facilities. Those "permanent" facilities which we have were constructed by the Indian people without assistance from the Indian Health Service through years of fund raising and through extensive donated labor and materials. At this point we have exhausted those resources and are unable to function effectively in our limited space. Our staff has grown and our numbers of patient visits have increased monumentally over the last seven years as can be seen from the following figures for Riverside-San Bernardino County Indian Health:

YEAR	1982	1983	1984	1985	1986	1987	1988
PATIENT VISITS	62,696	95,705	118,168	139,235	187,894	210,912	225,587

However, instead of continuing to lease trailers, it would be far more cost effective if we could instead buy our units or construct additions to our existing facilities which would meet our needs. Our needs are modest, both in terms of dollars involved and space required. They are the following:

Indian Health Council needs approximately \$500,000 for a 6000 square foot facility expansion and \$110,000 for equipment. The current 3,700 square foot facility on the Rincon Indian Reservation is the primary facility from which we serve the eight reservations and 6,220 Indians in rural northern San Diego County. The program also operates a satellite clinic on the Santa Ysabel Reservation. Our main facility is in dire need of

expansion to accommodate our present staffing level. Although the IHS National Plan identified a need for \$5.75 million for modernization of our health center, we believe that it would be more cost-effective to expand the facility by 6,000 square feet at the cost of \$500,000 with related equipment costs of \$110,000.

Riverside-San Bernardino County Indian Health needs

\$540,000 for facility expansion. This funding is necessary for a 7,200 square foot expansion to meet JCAHO accreditation standards and the fire marshal's safety recommendations. Also, RSBCIH currently leases mobile facilities and office space, but it would be far more cost effective if we were able to construct or purchase facilities for which we spend \$121,000 per year to lease. In the interim, we are leasing mobile units for \$8,000 per month which could be purchased at a total cost of \$240,000.

Southern Indian Health Council needs facility expansion funds in the amount of \$500,000. This funding would allow a 5500 square foot facility expansion. Although SIHC has recently built a new out-patient facility with HUD funding, there was not sufficient funding available to meet the program's facility needs. Consequently, half of the clinic remains housed in trailers and cannot operate efficiently or effectively. Therefore, space is needed to house our community health, substance abuse, mental health, social services, outreach, fiscal, billing, administration, environmental health, and maintenance departments.

III. IMPLEMENTATION OF P.L. 93-638.

We would also request today that the Committee continue to monitor the IHS and BIA administration of the Indian Self-

Determination Act to insure that the process which the Congress has mandated to obtain Indian input in the regulations is not totally thwarted by the federal agencies. Although there appear to have been sincere attempts to obtain input into the regulations by IHS, the Bureau of Indian Affairs has shown great reticence to obtain serious input from the Indian leadership.

We are finding, in addition, that the Indian Health Service is continuing to thwart the intent of the Indian Self-Determination Act by failing to allow programs to contract based on issues such as "divisibility" of services. In one current situation, IHS has funding for one program to serve Indians throughout the state. However, they intend to locate that program on one of the most remote reservations without consideration of how it will serve the Indians of our reservations. Instead of allowing us to contract under P.L. 93-638 for our proportionate share of the funding, IHS is saying that to provide us with part of the monies will not create an acceptable statewide program. Thus, they are thwarting the intent of Congress in enacting the law which was to allow for the greatest degree of Indian control and self-determination.

Similarly, Southern Indian Health Council was forced to sue IHS in federal court to obtain its P.L. 93-638 contract because IHS was misinterpreting the law despite a very specific interpretation of the provision in question by the committee in its report on the Act which was identical to the interpretation which we urged and which the federal court adopted. For Tribal organizations to have to resort to litigation to force the Indian Health Service to follow the law and the interpretation

specifically placed thereon by this Committee is a waste of both time and precious resources. Thus, we urge the Committee to provide any assistance possible in supervising and guiding IHS on these issues.

CONCLUSION

We appreciate the opportunity to appear before you today and request that your Committee take action to insure that all California Indians receive the comprehensive health care services to which they are entitled.

Dated: April 27, 1989.

Respectfully submitted,
Southern Indian Health Council
Indian Health Council, Inc.
Riverside-San Bernardino
County Indian Health, Inc.

By: Barbara E. Karshmer
Barbara E. Karshmer
ALEXANDER & KARSHMER

Attorney for the above-named
Health Programs

TESTIMONYFIELD HEARING: INDIAN AFFAIRS ISSUESAPRIL 27, 1989ESCONDIDO, CALIFORNIAINTRODUCTION

Good afternoon. My name is Ralph Forquera. I am the Executive Director for the San Diego American Indian Health Center, an urban Indian health program located in the City of San Diego. I am a California Mission Indian from the Juaneno Band of Mission Indians, a non-Federally recognized tribe currently petitioning the Federal government for reinstatement of Federal acknowledgement. I am also a part time lecturer in American Indian studies at San Diego State University as well as an elected member of the Board of Trustees for Palomar Community College located in San Marcos, California.

Welcome to San Diego County.

SUMMARY OF TOPICS

I would like to address the following issues briefly:

1. urban Indians: recognition and resource distribution;
2. urban Indian health in particular;
3. and from a personal note, the Bureau of Indian Affairs process for reinstatement of Federal acknowledgement to a terminated tribe.

URBAN INDIANS

Perhaps one of the most forgotten segment of contemporary America is the urban Indian. Since the turn of the 20th century, Indian people have left traditional homelands, whether reservation or not, and entered cities throughout this nation. During the 1950s, it was the policy of this nation to drive Indians into the cities in unprecedented numbers. But I am sure you are familiar with this history.

As the director of an urban Indian agency, I feel I have

first hand knowledge of the problems faced by the urban Indian and I daily work with the effects of inadequate resources to address these problems.

There remains among many a belief that the Federal government "takes care of Indians". This belief is held by many local officials. Most acknowledge that there are Indians in San Diego County; but they only know of those who live on the Indian reservations. Their knowledge is limited to the usually negative newspaper articles that appear infrequently in local publications, or to the ads for Bingo.

Based on these beliefs, getting local help to address urban Indian health or other human care needs is difficult if not impossible.

American Indians make up less than 1% of the total San Diego County population. Those living on reservations do not pay property tax. The County, therefore, feels no obligation to direct scarce resources for Indian needs.

Indians living in the cities frequently are handicapped by poor education, inadequate job skills, sometime language limitations, and cultural perspectives which differ greatly with the contemporary attitudes in America. As such, their ability to break into reasonable living standards are compromised by these situations.

Those of us serving this group of Indians find ourselves constantly fighting the funding battle. For example: funds appropriated for urban Indian health in FY-1989 was \$9.323 million. This funds 35 urban Indian health programs - an average of \$266,000 per program. \$266,000 in health care today is not a lot of money.

Other services for Indians are impaired by similar financial constraints. For example, the Indian Child Welfare agency serving San Diego County is bracing itself for a potential 50% funding reduction. Should this transpire, the services which will likely be scuttled will be those to urban Indians. Why? Because federal level recognition of the needs of urban Indians does not mandate such services.

From a federal perspective, I see two distinct problems, albeit closely linked. First, there is limited recognition of urban Indians as a sub-group of American aboriginals by the Federal government in spite of the fact that urban Indians now constitute more than half of all Indian people. Second, resources to address the needs of urban Indians are insufficient and will remain that way until a greater understanding of the needs of urban Indians gains its proper status.

URBAN INDIAN HEALTH

Let me turn to the issue of urban Indian health.

As previously stated, the Federal government has provided \$9.323 million to fund 35 urban Indian health programs. This, in and of itself, is a good start. But problems erupt with not the dollar figure, but with how these dollars are distributed. Much too often, the lack of concern for urban Indian health leads to long and sometimes detrimental delays in releasing funds to urban programs. A case in point is currently pending.

This year, Congress appropriated special funding for AIDS education for urban health programs. \$300,000 was appropriated by Congress. This funding became available on October 1, 1988, the start of this Federal fiscal year. It is now April 27th, and these funds have not been distributed to the urban programs.

In April of 1988, there were 74 reported cases of AIDS in American Indians. In April of 1989, 104 cases have been reported. Authorities at the Federal Centers for Disease Control believe that AIDS entered the American Indian community late and that the number of cases reported will escalate greatly over the next three to five years. With education being our only defense against this dread disease, why the delay?

The health of American Indians is increasingly compromised by inadequate funding and bureaucratic "white-tape". Urban Indian programs have special contracting provisions so they cannot access resources from "tribal" categories in the Indian Health Service budget. Few funds are appropriated for mental health services, drug and alcohol services, and contract care to support higher levels of care often needed by urban Indians as well as reservation Indians. Some scary statistics about the increased use of intravenous drugs by American Indians, especially methamphetamine, not only demonstrates the need for greater access to these resources, it is also a prime indicator of the risks of AIDS growing in the Indian community.

The Indian Health Service has a fine system of delivery. But it is burdened by politics, inefficiencies, and bureaucratic processes which deny Indian people much needed resources. The administrative budget for the Indian Health Service in California surpasses that available to fund the 8 direct-care urban Indian health programs. I believe our priorities need to be re-evaluated.

FEDERAL RECOGNITION PROCESS

For the next few moments, I would like to step out of my role at an urban Indian health administrator and speak as Ralph Forquera, Juaneno Indian.

In 1954, I was 6 years old. I lived in a small town in central California. I had no knowledge of the fact that the Indian tribe of my mother's ancestry was to lose its Federal recognition, or did I likely care. But today, as Ralph Forquera the adult, the American Indian, I find it very important.

The Juaneno Band of California Mission Indians represents a unique group of people. They spoke a distinct language, had various traditional beliefs, and were torched and killed by the Spanish missionaries who dominated the extreme western two-thirds of California from the 1760 to 1849. They were enslaved, required to denounce their heritage, and yet, survived.

Currently, the Federal Bureau of Indian Affairs has a petition from the Juaneno Band of California Mission Indians seeking reinstatement of its Federal recognition. I am told that this process will take three-years. My question is - why?

At one time, hundreds of Juaneno Indians were recognized by the Federal government. I have a document from the Bureau of Indian Affairs which shows that they acknowledge me as a member of this Band of Indians. They have given me a number. I feel, therefore, that I am recognized and should, justifiably, receive immediate re-recognition and not have to jump through hoops for three years.

The Federal government recognizes Russia as a nation. We recognize South Africa as a nation. We recognize California as a state. This is done without a long detailed, elaborate, and costly process. So why should Indians be subject to this type of bureaucratic harrassment?

The Federal government unilaterally decided to terminate the Juaneno Band of Mission Indians from Federal recognition. Can

they not correct this mistake without further denegrating the Indian people that made up this group of humans?

I support the process of reinstatement of this recognition not because of any potential access to resources this might be gained, I, personally, will never use them. But I believe that it was wrong in 1954 to deny this status to a group of people, and I believe it is time to correct this error. But the process established is degrading. It is dehumanizing. It is demoralizing to many. Such practice has been the way of the Federal government's treatment of Indians. By creating process, we do not have to consider the psychic effects of our work. All people need to be recognized.

If I could change the history of the Federal government and its relationship with the various Indian tribes, I would like to see greater emphasis on compassion and humane treatment. The denial of recognition is a cruel act. It deserves to be recognized as such and changed.

I believe that the staff of the Bureau of Indian Affairs are doing the best they can to process this petition. In my discussions with the staff handling this claim, they seem very sincere. They are human; the process is not.

In the Indian world, respect is a critical value. We live in a society which has lost respect for its institutions. Governments can create structures which symbolically show respect. I, for one, would like to see the process of Federal recognition done in a respectful manner. Perhaps by so doing, the process can be effectively speeded up to a more reasonable time frame.

VIEJAS INDIAN RESERVATION

Anthony R. Pico, Chairman
 Alan L. Barrett, Vice Chairman
 Paulette Sutton, Secretary
 Steven F. Te Sam, Treasurer
 Thomas J. Hyde, Councilman
 Raymond Cuero, Councilman
 Audrey R. Wallace, Councilman



P. O. Box 908
 Alpine, CA 92001
 (619) 445-3810

TO THE UNITED STATES SENATE
 SELECT COMMITTEE ON INDIAN AFFAIRS

STATEMENT OF ANTHONY R. PICO, TRIBAL CHAIRMAN
 VIEJAS BAND OF MISSION INDIANS
 SAN DIEGO COUNTY, CALIFORNIA

APRIL 27, 1989

Dear Chairman and Members of the
 Senate Select Committee on Indian Affairs:

As little as two hundred years ago our people were completely independent because we enjoyed complete sovereignty over our affairs. Our own economy, executive, judicial and legislative branches of government functioned just as well as any other government in the world. Since we have now been conquered by the United States of America, we no longer enjoy the complete sovereignty of the past. The Federal Government is now the power who looks over our interests in a role that is now known as Trust Responsibility. This Trust Responsibility is carried out by the Bureau of Indian Affairs. I appear here before you to report that the Bureau of Indian Affairs is failing in its efforts in carrying out its responsibility to hold in trust the interests of the Indian tribes of Southern California.

The Bureau of Indian Affairs has become a bureaucracy that exists primarily for the purpose of promoting its own existence. This government agency lacks leadership, it lacks regulation, it lacks guidelines, and it lacks accountability. "Red Tape" has become a way of life for the Red Man.

I believe that the Trust Responsibility is a fiduciary duty of the Bureau of Indian Affairs, and it has been breached. I would like to detail in this small allotted time how this happened to tribes in economic development, housing, real estate, and law and order.

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The Congress of the United States has invested approximately four years in debate over Indian gaming and how it should be regulated. Congress has recently imposed a comprehensive scheme of regulations, known as Public Law 100-497, that tribes must follow in order to conduct gaming activities. But Indian gaming is only a small part in the initial process that must be undertaken by Indian tribes if we are to achieve economic independence.

The Bureau of Indian Affairs has a far greater impact on our ultimate goals and way of life than any single economic venture such as bingo. Where are the rules and regulations for the Bureau of Indian Affairs? Congress has not seen fit to impose codes of accountability or responsibility on this agency. In the experience of my tribe, the Bureau of Indian Affairs can take as long as it wants to review a contract--or it may choose to never take action at all. Any excuse is O.K. because the Bureau never has to be genuinely concerned about accountability.

In the distant past, we have submitted a gaming contract to the Bureau. Over one year has elapsed without approval. Each time it was returned, we complied with every request and resubmitted our application immediately only to have it wait another six months or so before a new set of changes were requested. We have kept current on political developments and have been patient. We understand that gaming is a unique problem.

What about legitimate business deals in institutional industries? We have submitted to the Bureau of Indian Affairs a contract which involves the construction and management of a 240-bed detention and housing facility for the Department of the Interior Immigration and Naturalization Service (INS). This is a minimum security facility to be utilized for housing of illegal aliens awaiting appropriate paperwork during the deportation process. This project was supported by the vast majority of tribal members and received no local community opposition upon publication of the environmental review findings.

This project is of vital importance to the Viejas Band of Mission Indians. Not only does it provide tribal government with a \$10,000 per month guaranteed income, but it also

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contains provisions for Indian preference in hiring and imposes obligations to train members of the Band for employment. This is extremely important to our small Band where underemployment is 83.3% and unemployment is 51.5%.

There have been numerous investigations and reports on just how ineffective and inefficient the Bureau of Indian Affairs is. However, nothing has been done to change the status quo. It has even been strongly suggested that the Bureau of Indian Affairs is so inept that the only way to fix it is to abolish the organization. However, all that needs to be done is to make these public servants accountable.

The Bureau should have realistic guidelines, standards for review, time schedules, with conclusive, enforceable language. It is not cruel and unusual punishment to require the Bureau of Indian Affairs to reject or accept a proposal within a definitive system and time schedule. These public servants have lost sight of the fact that they are there to protect and serve the American system and not their own self-serving interests. They create mountains out of molehills, and 90% of the issues raised by these individuals are, in reality, non-issues. In our dealings with the Bureau of Indian Affairs, our experts, our attorneys and our advisors are continuously confused and irritated at the low professional quality of response by these individuals. Ninety per cent of the adjustments or corrections that are required are made on pride of authorship issues that have nothing to do with the essential elements of any proposed deal.

There needs to be guidelines. We need to know ahead of time whether it will take three months, or six months, or whatever period of time to process a proposal. We can build this into our procedure. When we are told that the Bureau will evaluate a proposal within 30 to 60 days, decisions are made in reliance upon these representations. Money is committed. Millions of dollars stand ready to build these projects. The Bureau of Indian Affairs is totally insensitive to the commitments that must be made and feels free to arbitrarily change its policy review process at will.

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Mr. Chairman and Members of the Senate Select Committee, the Bureau of Indian Affairs is perceived as the main impediment for tribes seeking the initiative in the area of economic opportunity.

I would like each and every member of your Committee to appreciate the fact that the Viejas Band of Mission Indians does not presently have a bingo game on the Reservation. This is true even though we have the best location for a successful gaming operation in San Diego County. We are located immediately adjacent to an interstate freeway 25 miles from downtown San Diego. We have moved very cautiously and deliberately in the area of economic development. However, we have come to the point of desperation. Our survival depends upon immediate economic development. The stability of our tribal government and way of life demands that we do something to become financially productive NOW. We urge each and every member of this Committee to support us by encouraging the Bureau of Indian Affairs to do its job.

We have been over four months attempting to have our contract for the Immigration and Naturalization Service detention facility approved by the Bureau of Indian Affairs. We have no way of knowing how much longer it will take. We only know that the Bureau has accepted our appraisal, that they have issued a Finding of No Significant Impact (FONSI) report, and that the contract is in process. We simply cannot conceive of any reason why this project should not be approved immediately. In addition to the jobs, the Viejas Band will lose \$10,000 per month of delay. We may lose this opportunity altogether because the Bureau of Indian Affairs is non-responsive and because no one seems to be able to impress upon this agency economic realities regarding financing, funding commitments and the fundamental principles of common courtesy and consideration.

I have heard many members of Congress express regret that economic opportunity in Indian Country must resort to gaming enterprises. Surely, it reflects upon all Americans that Indians must cling to bingo and card games as a source of governmental revenue. But, the door is opening, and certain

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other opportunities do exist. Unfortunately, Indian Country still lacks the track record and reliability to attract the mainstream of legitimate established business.

The Viejas Reservation believes that we have been successful at negotiating a legitimate business venture. But, we may lose this opportunity due to the slow and non-responsive attitude and procedure of the Bureau of Indian Affairs. Unfortunately, we have found that "the squeaky wheel gets the grease". The Bureau of Indian Affairs only responds to political pressure.

In the interest of justice and fair play, we ask each member of this Committee to support us in our quest. What is the status of our detention facility contract? We don't know and can't find out. Nothing we have been told in the past has been true. We are tired of rhetoric. Without accountability we have no recourse. Any help this Committee can give to assist the Bureau of Indian Affairs in locating this project, to get them to work on approving this project within the next 30 days, would be greatly appreciated.

The responsibility for the review process lies with Ron Eaden, Acting Area Director; Ronald Jeager, Acting Assistant Director; and Carmen Facio, Real Property Analyst with the United States Department of the Interior, Bureau of Indian Affairs, Sacramento Area Office, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 978-4697. Initial processing was supposedly accomplished in the Riverside Office of the Southern California Agency at 3800 Lime Street, Suite 722, under Superintendent Tom Dowell (714) 351-8627. We will be happy to provide appropriate documentation and additional information upon request.

The Bureau of Indian Affairs has set guidelines in order to ensure that the little housing money that is allotted to them will reach the most needy. In 1984 housing money that was allotted to the Pauma Band of Mission Indians did not go through the procedure to identify the most needy; and according to the Tribal Chairman, Benjamin Magante, the Bureau has notified the Pauma Band that they are now being penalized in that they will get no new housing monies for four years beginning in the year 1986. If the Bureau would have followed their own guidelines, which is their Trust Responsibility, this

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Inequity would not have happened. The solution is to ensure that the Bureau of Indian Affairs follows their own guidelines in this case and penalize them if they fail to do so.

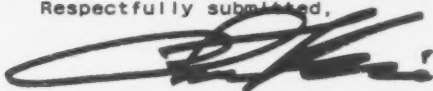
The land that we possess is our most sacred holding. Our whole existence, sooner or later, relates back to our land. Of all the Trust Responsibilities that the Bureau has, this is the most important. In 1973 the Bureau of Indian Affairs negotiated for an ingress and egress right of way for a forest products economic venture on land owned by the Pauma Band of Mission Indians. Apparently this right of way, which gave access to the Pauma Band to their own land, which passed through land owned by the Pala Indian Reservation, was temporary in nature. At this time, the Pauma Band cannot get to its valuable timber because the Bureau of Indian Affairs, in its Trust Responsibility, did not foresee a permanent right of way. The Pauma Band and the Pala Band, who have always enjoyed a good relationship, now find themselves in what the Pauma Band describes as a "hardship" relationship. It seems that the Bureau is trying the old "divide and conquer" tactic. In the opinion of the Pauma Band, the Bureau of Indian Affairs has breached their trust relationship. The solution is for the Bureau of Indian Affairs to restore a right of way to lands owned by the Pauma Indian Reservation.

Law and order has been a problem with California tribes since Public Law 280 came into effect. The gray area of criminal jurisdiction and the lack of funds to deliver adequate police protection is particularly hard to deal with. Criminal jurisdiction was given to the State of California under Public Law 280 without adequate funding to carry out the Act. Impact money is made available to school districts where federal lands are concerned--why not for criminal jurisdiction? San Diego County is the meth-amphetamine capitol of the world, and many drug labs are being put on Indian reservations here and thereby polluting the land, minds, and spirit of our people. The solution, due to the minimal response of the agencies responsible for law and order, is to retrocede criminal jurisdiction back to the tribes or, at a minimum, to fund law and order protection on Indian reservations in California.

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In conclusion, the Bureau of Indian Affairs has little respect and appreciation for the problems that face us daily. They are still in the mode and thinking of thirty years ago, while the tribes have advanced. The Bureau of Indian Affairs must be accountable, must have guidelines and timelines when dealing with economic development contracts; and there must be a consequence or penalty if these guidelines are not met. There must be accountability or consequence if the Bureau of Indian Affairs does not fulfill its Trust Responsibility to the fullest to the tribes.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'A. Pico', written over a horizontal line.

Anthony R. Pico, Tribal Chairman
Viejas Band of Mission Indians

Indian Child and Family Services

The Indian Child Welfare Consortium

April 19, 1989

Senator Daniel Inouye
Chairman
Senate Select Committee on Indian Affairs
Room 838, Hart Senate Office Building
Washington, D.C. 20510-6450

RE: Written Testimony, to corroborate oral testimony to be given in Escondido, Ca. on April 27, 1989 before the Senate Select Committee on Indian Affairs.

Dear Senator Inouye,

I wish to thank you and the Senate Select Committee on Indian Affairs for allowing me to testify on this day, April 27, 1989.

I am testifying as the Director of an Indian Child Welfare program which is funded through Title II money and which operates in a PL 280 state.

I can only speak of my experiences--the successes that occur in trying to ensure that the Act is followed in the counties we serve and the difficulties we encounter in trying to accomplish that end.

Indian Child and Family Services is a consortium of small Bands of Mission Indians from Southern California. Our membership is composed of fourteen Indian tribes and three Indian organizations in San Diego and Riverside counties. The unique composition of our membership allows us to serve the reservation population as well as the urban population in both counties.

There are 28 reservations in our geographic area, making us second only to the Navajo Nation in the number of reservation based Indian people served.

The needs of Southern California Indians are consistent with those of reservation and urban Indian people throughout the country. In trying to provide Indian Child Welfare services, it is important to be aware of the unique features of Indian (Native American) culture, which impact the delivery of these services.

San Diego County • 1525 S. Escondido Blvd., Suite E • Escondido, CA 92025 • (619) 747-5100 Mailing Address • P.O. Box 398 • Escondido, CA 92029
Riverside County • 738 N. State St., Suite 101 • Hemet, CA 92343 • (714) 929-3319

1-800-922-2091

Sen. Daniel Inouye
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Some of the most visible areas of deficiency for Indian people locally include the need for:

- Improved economic opportunities on the reservations and in the cities;
- Reservation and urban education programs aimed at reducing the high school dropout rate;
- Culturally sensitive drug and alcohol counseling programs and treatment centers for reservation and urban Indians;
- More community education about child abuse and neglect;
- Knowledge about the long-term affects of drug abuse on fetuses, children and adults;
- Increased awareness of county services, such as welfare, housing, transportation;
- Increased knowledge about Indian culture by elected representatives and departments of social services;
- Awareness of the Indian Child Welfare Act by all public agencies and an understanding that as a federal law it must be implemented;
- Increased child abuse/neglect intervention and prevention services throughout reservation and urban Indian communities;
- Community education on parenting skills and child development;
- Methods to reduce the number of unwed teenage pregnancies;
- Juvenile delinquency intervention and prevention;
- Increased recruitment and licensing of Indian foster parents, particularly foster parents who are trained to care for high risk infants (such as those who are HIV positive (AIDS) or who have been born addicted to drugs.

Few people are aware that California has the largest Indian population of any state in our country. The 1980 U.S. Census identified over 250,000 Indians in this state. This figure is now viewed as very conservative.

Fewer people know that there are 97 Indian reservations in this state. Twenty eight of those reservations are in Riverside and San Diego Counties--the ICFS service area.

Another misunderstanding about California, particularly Southern California, is the belief that all of this area consists of big cities, freeways, too many people and smog. True, that description fits a great deal of Southern California, but an equally large part of our service areas are rural, mountainous or desert; isolated and sparsely populated.

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Located between 20 and 60 miles from the closest urban centers, the reservations in our area are small with few businesses or services located nearby.

San Diego County, with over 2,000,000 residents is the second most populated county in California. In 1980, American Indians comprised 0.8% (14,616 persons) of the region's total population. Current estimates suggest that there are between 22,000 and 25,000 American Indians (approximately 1.0% of the total population) in the county. This proportion is expected to remain fairly stable through the year 2,000. Between 30% and 40% live on the reservations.

San Diego County:

San Diego County has the largest number of Indian reservations in the United States with 18 distinct land bases identified. These reservations represent nearly 11% (approximately 122,032 acres) of the county's total land base.

Additional data on the region's Indian population reveals the following:

- The 1980 age breakdown showed that there were 4,490 American Indians under the age of 17 (nearly 30%);
- American Indians accounted for 2.5% of the live births in San Diego County in 1985;
- In 1985 the infant mortality rate for American Indians was 10.7 per 1,000 live births as compared to 8.95% for the county rate;
- The estimated unemployment rate among American Indians is almost double the average county unemployment rate of 4.5%;
- The San Diego region became the least affordable major housing market in the United States in 1987. San Diego County families had to pay an average of nearly 36% of their income for an average priced new home. A City of San Diego Planning Department Survey conducted in 1985 found that at least 50% of the total income for low-income families was spent on housing.

The lack of affordable housing in San Diego means that an estimated 75,000 families in the city of San Diego face rental costs far above the one third of monthly household income the federal guidelines say families should spend on shelter and still provide for other necessities.

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Family violence is increasing in San Diego County. In fiscal year 1987-88, reports of child abuse received by the county's Child Protective Services Hotline increased by 37%. The problem is prevalent in all ethnic and socio-economic groups.

(Data was extracted from "Future Scan, San Diego County, the 1990's" published in January 1989 by United Way of San Diego County.)

Riverside County:

Recent data for Riverside County, our second county service area has not been documented as concisely as the United Way's Future Scan project in San Diego.

However, 1980 statistics revealed that 7,140 Indian people reside in Riverside County, nearly one third of them under the age of 18. If the growth rate of the Indian population is comparable to San Diego County increases, there may now be as many as 11,000 Indian persons in Riverside County a decade after the 1980 Census.

There are 10 Indian reservations in Riverside County, but as in San Diego County, the majority of Indian people reside in urban areas of the county.

Riverside County, in comparison to San Diego County, is about twice as large, encompassing approximately 7,000 square miles. Riverside County is also the more rural of the two counties with a larger land base devoted to farming (citrus, hay, cotton), as well as arid desert and mountainous terrain.

But Riverside County is also rapidly catching up to San Diego's rapid growth spurt in population and housing development. Housing prices, once reasonable, are now soaring as the immigration pushes the availability of many homes out of reach of most families, particularly for American Indians who are in the lowest economic levels in both counties.

Other than very generalized demographics from the 1980 Census, American Indians in San Diego and Riverside Counties are not counted as a special population in the categories of child abuse reporting, foster care and adoption by individual county statistics. Indian Child and Family Services relies on past program statistics for comparison and projections.

In 1983 ICFS was involved in the placement of 36 Indian

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children in foster care in San Diego and Riverside Counties. By 1984 those figures had more than doubled to 77. In 1986-87 148 Indian children were placed in foster care in Riverside and San Diego counties.

At the end of the 1987-1988 project year ICFS had received 725 referrals and was involved in the placement of 151 Indian children in both counties. Besides actual casework services provided to those children, advocacy and casework were provided to approximately 450 additional family members.

Currently ICFS is responsible for 116 Indian children in relative and non-relative Indian placements. ICFS has assisted San Diego County Department of Social Services in becoming nearly 100% compliant with the placement preferences of the Indian Child Welfare Act. In Riverside County, the county is 85% compliant with the law due to ICFS involvement.

Counties which neighbor our service area account for nearly 24,000 Indian people who are not represented by any Indian child welfare program. The Indian Child Welfare project in Los Angeles has just been re-established at Southern California Indian Center in this current year. They have resumed ICW services to over 50,000 Indian people there.

The following is a breakdown by county of the numbers of Indian people in our service area and surrounding our service area. Statistics are based on the 1980 U.S. Census:

	San Diego	Riverside	Imperial	Orange	San Bernardino
Total Indian population	14,414	7,140	1,367	12,782	9,967
Indian children under 18	5,120	2,350	595	4,651	4,022

ICFS is responsible for the San Diego and Riverside County service area as per our Title II Grant from the Bureau of Indian Affairs. We receive many referrals from social workers in surrounding counties. They request information or assistance in handling Indian child welfare cases. We continue to be the only licensed Indian foster family agency in Southern California.

We have 9 certified foster homes in Riverside County with a capacity of 32 children and there are 12 certified foster homes in San Diego County with a capacity of 40 children. Although our specific service area is the Riverside/San Diego county area, we do

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provide limited services to other areas. ICFS has a waiver from Community Care Licensing to provide foster home recruitment in these neighboring counties. We have certified 8 foster homes with a capacity of 23 children in Los Angeles and San Bernardino counties.

It is difficult to refuse services to Indian people out of our specific service area. We know that ICFS may be the only link between the ICWA being followed or ignored.

Client Service Count

Of the (approximately) 7,500 Indian children under 18 in San Diego and Riverside Counties, 25-35%--or 1,875 to 2,625--may be at risk of out-of-home placement. This figure is based on studies conducted by the Association on American Indian Affairs. According to previous ICFS statistics for the Riverside and San Diego County area approximately 10% of those 7,500--or about 750 children, will enter out-of-home placement over the next three years.

Available Services and Barriers to Services

There are no other Indian child welfare programs in San Diego or Riverside Counties. The closest ICW program is in Los Angeles which serves a population of over 50,000 Indian people. ICFS refers calls from Los Angeles to the ICW program there. ICFS certifies Indian foster homes in L.A., Orange and San Bernardino counties, because the L.A. ICW program is not licensed to certify foster homes. We have worked out a mutually agreeable system of foster home recruitment by ICFS and actual placement monitoring shared by the Los Angeles/Orange County Indian Child Welfare Program.

In California, child protective services are handled by the County Department of Social Services. A child who is removed from his parent or guardian because of abuse or neglect is removed by the county worker and county sheriff or police. Most county social service workers are ignorant of the unique culture of Indian people and Indian children are removed from homes which those workers determine, by non-Indian standards, to be unfit. For this reason Indian people are reluctant to become involved with non-Indian public agencies for support services.

Cultural Insensitivity

County and private social services to the reservations are sporadic. Few non-Indian individuals or organizations understand Indian cultures or feel comfortable in the Indian community. Thus, there is very little regular contact with the reservations or urban

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Indian communities to provide dependable, culturally-sensitive support services.

Another obstacle to services for Indian people in the rural areas is the isolation of the reservations. Almost all of the reservations are located in rural areas. County social workers are reluctant to travel to these remote areas to provide services. Response to emergency calls, such as reports of child abuse or family problems is predictably slow.

Child and family services that attempt to prevent family breakup exist in our service area. Most make a sincere effort to relate their services to the minority community. None make a special effort to serve the specific needs of American Indian children and families. Most are not aware of, or have little understanding of, the Indian Child Welfare Act.

An Indian family threatened with intervention by Child Protective Services or having already suffered the removal of its children, needs a full range of supportive and remedial reunification services. The most vital services ICFS can provide to these families include casework, counseling and referral services; certification of Indian foster and adoptive homes, ICWA training and education for the Indian community.

Within the ICFS service area, there are several other Indian programs which provide culturally-relevant services in San Diego and Riverside Counties. These programs include

- Rincon Indian Health;
- San Diego American Indian Health Center;
- Southern Indian Health Council;
- Indian Health, Inc. (Serving Riverside/San Bernardino);
- California Indian Legal Services;
- Indian Human Resource Center;
- California Indian Manpower Consortium;
- Riverside American Indian Center;
- Intertribal Council Rural Alcoholism Program;

None of these programs, however, specifically addresses Indian child welfare needs through casework, court advocacy, foster home recruitment or other intervention described by the Indian Child Welfare Act.

I have enclosed case profiles from San Diego, and Riverside counties. Review of these profiles will show that in the counties where we have worked the longest and where the full range of Indian Child Welfare services are available, children who have been

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removed from the custody of their Indian parent or custodian are appropriately placed in out of home care. In San Diego county 100% of the children referred to us are either in relative placements, in a Tribal foster home, in a licensed Indian home or in a group home approved by the Consortium in behalf of the Tribe. In Riverside county 90.32% of the children referred to us are placed following the mandates of the law.

As an administrator of a Title II project, I am in the position to witness the successes that are being accomplished in working to see that the Act is implemented in the counties we serve. I would like to mention a case I spoke about when I testified before the Senate Select Committee on Indian Affairs in May, of 1988.

Briefly, in this case which proved to be a success, we had a child referred to us who had been in a non-Indian foster care placement. Parental rights were going to be terminated and the child was going to be freed for adoption. County Adoptions contacted us to inform us of their plan for the child because they found, in going through his file, that he was Indian. The Tribe, a local California band of Mission Indians, had not been properly notified. Also, though the child had been verbally identified, by his parents, as Indian when he came into the county case load, no steps had been taken to verify. Through the efforts of our worker, the Tribe was notified, verification of eligibility for enrollment was secured and the Tribe petitioned to intervene in the case.

The County Adoptions Department was not favorably disposed to this action. They wanted the child to remain with the non-Indian foster mother (she was a single woman and an EVN), using the argument that the child was bonded and his removal would be exceedingly harmful to him. They also used the argument that he was severely developmentally delayed, that he was medically fragile and needed the 24 hour care that only she could provide.

We enlisted the aid of California Indian Legal Services in behalf of the Tribe. We requested that the child be placed in an Indian Foster Home pending a decision by the court as to whether the Tribe would be allowed to petition to intervene.

As it turned out, the case became a long drawn out court battle, with many continuations and witnesses testifying as to why the child needed to remain with this non-Indian foster mother. The Judge on the case was also not favorably disposed to allowing the child to be moved to an Indian foster or pre-adoptive home.

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After many months of court hearings, arranging for the child to be evaluated by our Licensed Clinical Psychologist (one of the therapist's we have on contract) he was placed in a pre-adoptive Indian home licensed by the county.

The placement failed and he was placed in an Indian Foster Home licensed by our agency. The child had been there for over a year when the Judge who had issued the order to have the child placed in an Indian home of our choosing asked to see the child. She was leaving the Court and wanted to assure herself that she had made a good and proper decision.

When she saw the child, she wept. Before her now was a three year old who was healthy, happy, engaging in age appropriate behavior and who was blossoming as a beloved member of a family. He clung shyly to the people he called "Mama" and "Papa", while showing off a small toy he carried in his hand. When asked, he identified it as his "car".

This child has subsequently been adopted by his foster parents. He is four years old, healthy, happy, the member of a large, loving and devoted family. I was privileged to be invited to the adoption hearing. The small judges chambers were packed with family. Each of his new brothers and sisters introduced themselves, identifying themselves by name and by saying, "I am John's brother", or, "I am John's sister." (Not the child's real name.) Each of these new brothers and sisters was an adult and all but one, married with children of his or her own. Among his many brothers, sisters, aunts, uncles, cousins, nieces and nephews (many of whom are his age, or older) are two foster sisters who will also soon be adopted by this extra-ordinary family.

This was the same 20 month old who had been diagnosed as severely developmentally disabled, about whom it was said he would never speak, that he was incurably asthmatic and could not be taken off oxygen, who was being administered phenobarbital for supposed seizures, and who would never bond with anyone other than the non-Indian foster mother.

This is one of many successes--hard fought and worth everything it took. At the time, we were accused of being calloused and uncaring when we insisted that the child be moved and placed in an Indian foster home. We knew that we were looking at the long-term best interest of this child and not an expedient, short-term solution.

I also encounter problems on a daily basis. As the administrator of a Title II project, one of the major problems is

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trying to ensure that the Act is followed in a Pl. 280 State, which by it's own survey finds itself to be 85-95% out of compliance and which makes few, if any efforts to increase compliance with the Act.

I consider the following to be contributing factors for why the Act is not followed:

1. Insufficient ICWA training for county workers, judges and attorneys in the State and county systems and no funds made available by the State or the Federal government for that training. Any training done on the Act in the counties we serve is done by our project. We also provide training to other counties and to Tribal groups as resources and time allow.
2. Early identification of Indian children within the system. There is no mechanism in place in the State of California for identifying children as Indian when they first come into the caseload. Identification is frequently made when the case has gone to adoptions, in other cases when the child has been in foster care for an extended period of time and bonding has occurred.
3. In many of the counties there is inadequate knowledge of appropriate ICWA procedures, including notification of Tribes. For example, at a meeting I attended recently in Los Angeles county, a Social Work Supervisor for Los Angeles county said that the reason his unit of workers did not notify the Tribes was because there was no money in their budget, earmarked to send notices return receipt requested and because nobody in the unit knew how to fill out the forms. In his view this was adequate reason for not notifying the Tribes and not following the Act.
4. In all counties in the State of California there is inadequate development of Indian Foster homes. The only counties that do actively recruit Indian foster homes are those in which there are programs funded through Title II, and in which those programs have been licensed by the State as Foster Family agencies. I believe the case profiles we submitted for the counties we serve will show that in those counties where there is active recruitment of Indian foster homes the order of preference mandated by the law can be followed--100%.

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5. Lack of sufficient funds for implementation of the Act impedes our ability to do our work. I will not belabor this point. Enclosed find a map of the State of California. It includes Indian population by county. I have marked the counties that have active projects this year and you will see that most counties--many with large Indian populations are not covered. A system, whether State or Federal, needs to be put into place whereby a project will automatically be funded in those counties with sufficient Indian population.
6. Record keeping and a system for compiling ICWA statistics need to be in place. Perhaps standardization of the type of data to be collected. The data to be collected at the local level, maintained at the State level and sent through a national clearinghouse on a yearly basis.

In order to demonstrate the need for the ICWA and strengthen the position for continued Title II funding, it is imperative to establish a data collection system which documents cases, cumulative statistics on caseloads, interventions, out-comes of interventions and final dispositions which will show the need for the Indian Child Welfare Act and strengthen the position for continued Title II funding.

7. Another area of concern is the funding process to which ICWA projects must subject themselves every year. The field readers for the proposals are often times not familiar with the area for which they are reading the proposals. As an example, because our project has it's offices in small cities, it is viewed as being an urban program. It is actually a consortium of small Tribes in two counties.

Though we do provide services to some families in the urban area, the majority of our cases are on the reservation, in rural, hard to reach locations which are scattered over a large geographical area--(11,000 square miles in two counties). At times we have to rent four wheel drive vehicles to get to some homes.

We are criticized for having "over inflated" budgets, yet those readers do not take into account that Southern California is rated as one of the ten (10) most expensive areas in the country in which to live. We are also required to pay competitive salaries to our

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employees by the State agencies that license us to do Foster Family and Adoptions recruitment and licensing.

This requirement insures that we have good qualified Indian staff (we do honor Indian preference in hiring) to do the work. Since they are adequately paid for the work they do, staff can add to their commitment to the children and families they serve, the ability to adequately provide for their own children and families.

8. The last area of concern is the need for improved education for the Tribes regarding their ICWA responsibilities. Tribes need to know how to respond to notices from States and counties and they need to respond in a timely manner.

Tribes need to inform their members of the law and it's importance to them. They need to know the benefits the law affords them and their children and they need to be responsible for their part in insuring that the Act is carried out.

As a Director who has administered a Title II project for five years, I know the Act can work--I see it working every day. I know families and Tribes have been well served. I know the best interest of Indian children has been preserved. Every week I see abused and neglected children who come into the caseload, beat down, with fear in their eyes, placed in good, appropriate Indian homes. I have the privilege to see them grow into healthy, beautiful children--children who know who they are, where they come from and who see the future as a friend and not the enemy who only brings more pain.

If we've done our job well, we have intervened into the cycle of abuse and neglect and have begun the process of building self-esteem, establishing an identity of which the children can be proud, and, at least for these children ended the ritual of abuse and victimization. No longer will these children be fated to abuse their own children. Their parents also will have begun to be in control of their lives and not victimized by substance abuse, alcoholism and the other manifestations of despair. If this is so, then the Act and our programs have fulfilled our purpose.

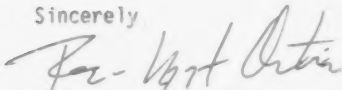
I believe that in the State of California it is important to have ICW projects in every county that has a significant population of Indian people. I believe that adequate funds need to be made available to the projects. I believe the State and counties should

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pay projects such as ours the full treatment rate for all children placed in licensed Indian foster homes. If these children do not meet the "treatment" criteria, then why is there an ICWA which specifically identifies "treatment" or "special needs" issues? I believe amendments to the Indian Child Welfare Act need to be adopted by the Congress so that the protections afforded by the Act are more complete and comprehensive. I believe the amendments should include penalties for those States that do not comply with the Act. I believe that if the Act is strengthened by adopting the amendments, many more Indian children will grow up strong, beautiful and healthy. They will contribute greatly to this society, which has acknowledged their uniqueness by aiding them in maintaining their right to their Indian heritage.

I strongly urge this Committee to re-introduce the amendments to the Indian Child Welfare Act, and the legislation which would allow Title 20 monies to be designated for ICW programs. I believe these recommendations will strengthen programs such as ours, will allow for more programs to exist and will ultimately preserve and strengthen the Indian Nation as a whole.

Sincerely



Rose-Margaret Orrantia
Executive Director

PLACEMENT STATISTICS
Indian Child and Family Services
February 1989

<u>Child</u>	<u>Date of Birth</u>	<u>Reason for Placement</u>	<u>Parental Substance Abuse</u>
1.F	3-4-88	Drug-addicted birth	Crystal
2.M	2-2-87	Abuse/Neglect	Heroin
3.F	9-23-77	Molest	0
4.F	1-2-82	Abuse/Molest	Alcohol
5.F	9-2-80	Abuse/Molest	" " (same parent)
6.M	6-16-84	Abuse	" " "
7.F	9-23-76	Neglect	Crystal
8.F	1-2-75	Neglect	" " (same parent)
9.M	8-30-78	Neglect	" "
10.F	10-31-78	Abuse/Neglect	Alcohol
11.M	11-5-83	Abuse/Neglect	" " (same parents)
12.F	8-15-84	Neglect	Crystal
13.F	2-24-72	Neglect	0
14.F	8-14-83	Neglect	Crystal
15.M	11-3-88	Drug-addicted birth	Crystal
16.F	5-29-79	Neglect	Alcohol/Crystal
17.F	11-1-81	Neglect	Heroin
18.F	4-1-84	Neglect	" " (same parents)
19.M	9-14-86	Neglect	0
20.F	10-4-87	Drug-addicted birth	Heroin
21.F	4-18-81	Neglect	0
22.M	3-19-86	Neglect	0

<u>Child</u>	<u>Date of Birth</u>	<u>Reason for Placement</u>	<u>Parental Substance Abuse</u>
23.F	3-1-84	Neglect	0
24.M	2-25-85	Neglect	Crystal
25.F	12-2223-82	Molest	Crystal
26.F	8-5-97	Neglect	Heroin
27.F	7-10-88	Drug-addicted birth	Crystal
28.M	5-2-88	Drug-addicted birth	Crystal
29.F	5-26-76	Neglect	Crystal
30.F	7-18-87	Neglect	0
31.F	10-1-70	Neglect	Alcohol
32.M	2-26-88	Drug-addicted birth	Alcohol
33.F	12-18-81		Heroin
34.F	10-9-76	Molest	Alcohol
35.F	10-25-74	Molest	Alcohol/Crystal
36.F	7-24-84	Abandoned	Alcohol/Crystal
37.M	10-16-85	Abandoned	Alcohol/Crystal
38.F	2-25-87	Abandoned	" " (same parents)
39.F	7-19-74	Abuse	0
40.M	3-19-77	Abuse/Neglect	0
41.M	7-30-75	Abuse/Neglect	0
42.F	10-13-77	Other	Alcohol
43.F	2-9-81	Molest/Neglect	0
44.F	1-22-85	Neglect	0
45.F	10-29-82	Abuse	0
46.F	9-29-87	Other	0
47.F	1-29-78	Abandoned	Heroin
48.F	9-7-79	Abandoned	" " (same parents)

<u>Child</u>	<u>Date of Birth</u>	<u>Reason for Placement</u>	<u>Parental Substance Abuse</u>
49.M	6-13-87	Drug-addicted birth	Crystal
50.F	6-27-79	Abuse/Neglect	Alcohol
51.F	7-17-78	Abuse/Neglect	" " (same parents)
52.F	5-22-80	Abuse/Neg./Molest	" " "
53.F	7-10-77	Abuse/Neglect	" " "
54.M	3-6-88	Drug-addicted birth	Crystal
55.F	12-6-87	Abandoned	Alcohol
56.F	8-9-85	Neglect	0
57.F	12-21-73	Abuse/Neglect	0
58.M	4-21-75	Abuse/Neglect	0
59.F	8-1-88	Neglect	0
60.F	7-20-88	Drug-addicted birth	Crystal
61.M	12-4-88	Drug-addicted birth	Cocaine
62.M	9-11-79	Other	0
63.M	6-12-88	Drug-addicted birth	Alcohol/Crystal
64.M	4-30-81	Abuse/Neglect	Alcohol
65.F			0
66.F	3-1-85	Neglect	Heroin
67.F	9-6-87	Neglect	Heroin
68.F	6-29-88	Drug-addicted birth	Heroin
69.M	5-14-86	Neglect	Heroin
70.M	4-9-88	Drug-addicted birth	Heroin
71.M	11-10-88	Drug-addicted birth	Heroin
72.M	2-6-82	Abuse/Neglect	Poly-User
73.F	7-7-78	Abuse/Neglect	Poly-User (same parents)

<u>Child</u>	<u>Date of Birth</u>	<u>Reason for Placement</u>	<u>Parental Substance Abuse</u>
74.M	2-22-86	Neglect	Heroin
75.M	7-13-87	Drug-addicted birth	Heroin (same parents)
76.F	10-23-72	Other	0
77.F	10-7-84	Abuse/Neglect	Alcohol
78.M	6-28-86	Abuse/Neglect	
79.F	8-19-87	Abuse/Neglect	
80.F		Neglect	Alcohol
81.M	7-19-82	Neglect	Heroin
82.M	5-14-86	Drug-addicted birth	Heroin
83.F	8-8-87	Neglect	Heroin
84.F	8-27-88	Neglect	Heroin (same parents)
85.M	3-1-83	Neglect	Heroin
86.F	9-12-86	Neglect	Heroin (same parents)
87.M	3-21-81	Neglect	Heroin
88.M	7-19-82	Neglect	Heroin (same parents)
89.F	9-13-83	Neglect	Alcohol
90.F	7-11-88	Neglect	Alcohol
91.M	2-22-89	Abandoned	
92.F	--	--	--
93.M	4-20-87	Abuse/Neglect	0
94.F	9-29-83	Abuse/Neglect	(same parents)
95.F	6-3-84	Abuse/Neglect	(same parents)
96.M	5-25-80	Neglect	Heroin
97.M	8-10-83	Neglect	Heroin (same parents)
98.F	8-26-84	Abuse/Neglect	Alcohol
99.M	8-15-88	Neglect	

<u>Child</u>	<u>Date of Birth</u>	<u>Reason for Placement</u>	<u>Parental Substance Abuse</u>
100.F	7-1-84	Neglect	Alcohol
101.M	6-15-85	Neglect	Alcohol (same parents)
102.F	3-17-88	Abuse/Neglect	0
103.M	12-23-77	Neglect	0
104.M	11-16-76	Neglect	(same parents)
105.M	8-8-79	Neglect	0
106.F	9-22-77	Neglect	0
107.F	1-26-82	--	--
108.M	10-31-84		0 (same parents)
109.F	1973	Neglect	Alcohol
110.F	3-20-87	Drug-addicted birth	Alcohol/Crystal
111.F	8-11-85	Abuse/Neglect	0
112.M	12-5-87	Abuse/Neglect	0
113.M	7-15-82	Abuse/Neglect	0
114.M	9-20-84	Abuse/Neglect	0
115.F	2-13-80	Neglect	Alcohol
116.M	1-29-81	Neglect	Alcohol (same parents)
117.F	1-84	Neglect	Alcohol

0 = No substance abuse identified

LIST OF BANDS OF MISSION INDIANS AND INDIAN ORGANIZATIONS
WHICH COMPRISE MEMBERSHIP IN:
INDIAN CHILD AND FAMILY SERVICES

BANDS

1. Cabazon Band of Mission Indians (Riverside)
2. Cahuilla Band of Mission Indians (Riverside)
3. Campo Band of Mission Indians (San Diego)
4. La Jolla Band of Mission Indians (San Diego)
5. Mesa Grande Band of Mission Indians (San Diego)
6. Morongo Band of Mission Indians (Riverside)
7. Pauma Band of Mission Indians (San Diego)
8. Rincon Band of Mission Indians (San Diego)
9. San Pasqual Band of Mission Indians (San Diego)
10. Santa Ysabel Band of Mission Indians (San Diego)
11. Soboba Band of Mission Indians (Riverside)
12. Torres-Martinez Band of Mission Indians (Riverside)
13. Viejas Band of Mission Indians (San Diego)

INDIAN ORGANIZATIONS

14. Indian Health, Inc. (Riverside)
15. Indian Human Resource Center (San Diego)
16. San Diego American Indian Health Center (San Diego)



Indian Population of California

According to the 1980 census, 201,311 American Indians, Eskimos, and Aleuts were living in California out of a total population of 23,663,049. This means that .8 percent (1/125 of one percent) of California is Indian. (The actual numbers may be much higher, since the criteria which the U.S. Census Bureau use to define "Indian" are restrictive and much disputed.)

The map shows the number of Indians living in each county and their percent of the general population. Thus, for example, the figure 1464/.0% for Modoc County in the northeastern corner of the state means that according to the 1980 census there were 146 Indians living in Modoc County; and they comprised .0 percent of the county's population.

These figures clearly show the effects of re-

location. The smaller Indian populations in rural counties are largely Native California Indians. The huge populations of certain urban areas, notably around Los Angeles and the San Francisco Bay region, are mostly Indians from out-of-state, brought to California by the promise of relocation.

TO: Honorable Senator Daniel K. Inouye

TESTIMONY OF DENIS TURNER
SOUTHERN CALIFORNIA TRIBAL CHAIRMEN'S ASSOCIATION
APRIL 27, 1989

Southern California Tribal Chairmen's Association (SCTCA) Incorporated, was established in 1975 for a mission and purpose of supporting and advocating quality socio-economic growth on Southern California Indian Reservations.

The SCTCA Board of Directors are Tribal Chairpersons who are community based at each reservation. The SCTCA currently provides services to 22 reservations within (5) five counties in Southern California.

The SCTCA believes more than ever before, the 1990's will require tribal people and their leaders to be more innovative and creative in planning and developing for a successful socio-economic growth on reservations in the Southern California area.

In this effort of preparing and planning for the next decade, tribal leaders and tribal representatives are setting goals, that are clear, and achievable, realistic and supported by its tribal membership.

The necessary socio-economic changes on reservations in all of Southern California and other parts must be accompanied by its relationship with the Bureau of Indian Affairs (BIA) when required by laws. The BIA acts as a incoherent clearinghouse process, which has been viewed and seen by tribal leaders, the BIA efforts to assist tribes from the area and central offices levels are nil and marginal at best.

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The sources and character of confusion surrounding the tribes of Southern California and some other 70 tribes in Central and Northern California, have been the BIA agency, area and central agency officials inconsistency and inability to help carryout initiatives and opportunities planned and developed by tribal leaders in a timely manner. The specific problem is line of authority for approval of contracts, grants, policies, and other agreements. Sometimes its required at the area office for approval and other times at the agency depending upon project and dollar amounts of the proposal from tribe to tribe and how the funds might be used, with inconsistency from agency to agency.

We believe the first thing the Senate Select Committee must remember about the California situation is 96 or more tribes are provided BIA services with funding being the lowest of low, for all states, coupled with a lack of staff and adequate resources as well as residual supports for tribal projects. It doesn't take much imagination as why Indian people avoid BIA when trying to resolve issues that face tribal governments.

We urge the committee to convene at least the Office of Technical Services to obtain first hand knowledge of the potential permanent long term endangerment to the tribes socio-economic conditions, which are caused by the critical lack of BIA funding base.

We believe Tribal conditions with the BIA office situation in California can be changed by reviewing the following recommendations;

- (1) Develop a local Advisory Committee composed of 2 tribal representatives from the Northern, Central and Southern Agency to provide impact into BIA budget and policy decision at the Area Office level. Representatives could be selected at annual IPS meeting.

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- (2) BIA line of authority be change in California to provide Agency level officers to approve all contracts and grants, and agreements with tribes and tribal organizations.
- (3) Provide a Tribal base funding equitable or practical to support tribal government operations, which are consistent to tribal operation needs, which are guaranty by the Constitution of the United States.
- (4) Provide an updated tribal Representative Report of 1985 California Indian Task Force Report.

However, this testimony is only a reflection of tribal people needs and conditions on the Southern California reservations, it may provide a better understanding of the complex issues of 96 tribes in California with some insight into the intertwined conditions between tribes and federal agencies.

We understand and realize your committee has millions of things to do, but the single most important thing you can do is help provide an increase in base funding for small tribes of California.

The tribal leaders, federal agencies, state officials, and knowledgeable people working with Indian Tribes in California, have said for the last 10 years, without increase funding to adequately make change tax-payer money is wasted on the fruitless fiduciary effort of governmental authorities.

The Senate Select Committee must go on Congressional record to support the following action recommendations provided by the Southern California Tribal Leaders.

Thank you for providing us the opportunity to testify before your committee on a subject that is of great concern to the tribal leadership of Southern California.

TESTIMONY OF
JAMES J. FLETCHER FOR
SOUTHERN CALIFORNIA TRIBES
ECONOMIC STABILITY

Located within the Southern California region there are five major metropolitan areas. These areas are Los Angeles, Orange, Riverside, San Diego and San Bernadino. The metropolitan areas continue to expand in population growth, industrial, commercial, and residential development. The thirty-two (32) Indian reservations located in the Southern California region were once rural in nature. Today several reservations have several commercial industrial and residential developments either adjacent to or near the boundaries of the reservations. Economic development projects for these reservations are very near to becoming a reality. There are several areas of concern and complexity; planning, economic development, rights and resource protection. In an era of declining Federal dollars, the complexity of planning, economic development, rights and resource protection become exacerbated. The following are areas of critical need in order for Indian Tribes to survive and flourish in the future:

1. Governmental Survival

Over 90% of the 32 Indian reservations located in Southern California do not have an economic base, a revenue source outside of grants (Federal funds). The Tribal Governments receive about \$5,000 annually in Aid to Tribal Government. (See Exhibit A). Tribal governments primarily operate with volunteers and part-time clerical staff.

A continued stable revenue source is needed in order for Tribal Government staff to become profession, stable and able to effectively resolve the complex issues of tribal needs, economic development, rights and resource protection. Governmental staffs are unstable, experienced and turnover of staff frequently occurs due to fluctuations in grant funds.

The instability and frequent staff turnover leads to a constant training of new staff in grants management, and high use of consultants. The situation becomes further exacerbated by the Tribal Government's inability to effectively produce long range plans for development and to meet the needs of its tribal members without a stable staff.

A method to resolve this is to provide a stable appropriate sized revenue source for the Tribes until outside funding sources can be developed.

2. Planning for Projects and Developments

Planning and the creation of land use regulations and development ordinances are essential to Tribes on the urban fringe. Several Tribes have been approached by developers

offering large sums of money for the development of reservation land.

Proper planning and land use regulations and development negotiation skills are needed. To fulfill this need would enable Tribes to effectively negotiate with developers who propose commercial and economic development projects on reservation lands, otherwise those developers would take unfair advantage of the Tribes who could generate a compatible development with a stable revenue source.

3. BIA Equity Study

The Exhibit 2 is a BIA projection of funding availability for the Southern California Agency for FY'90. It is apparent from the source of this document when compared to the other Area offices and agencies, funds are not equitably distributed. I have recently become aware of an Equity Study that is being conducted by the BIA's Central Office. When the Study is completed, what will happen with it, will the BIA use this study to equitably distribute funds? Will there be an increase in budget dollars for under-funded Agencies and Area offices or will the Study collect dust.

The Study if done properly and implemented, would provide an increase to smaller California Tribes.

4. Administrative Processes for Approval of Contracts, Leases on Payments on Grants and Contracts

Delineated earlier was the size of grants and contracts. The payment system for these grants and contract often exceeds six weeks. Cash flow is a critical item to small Tribes, due to their size and lack of revenue from other sources. The process for payment is as follows:

- a) a tribal request is sent to the Agency
- b) within 30 days of receipt of that request it is to be forwarded to Sacramento Area Office who has a thirty day review period
- c) the request is then forwarded to Albuquerque, NM who has thirty days to issue the check

This process is far too long for the payment of grant and contract funds. A new payment system needs to be developed. Contracts and lease approvals generally require Agency and Area office approval. These contracts and leases are forwarded to Agency and then Agency forwards them to Area office. The Tribes will often not hear about the leases or contract for months. A system for expediting this review and approval process is needed.


James J. Fletcher

Representing Small Southern California Tribes

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
SOUTHERN CALIFORNIA AGENCY
3900 LIME STREET, SUITE 722
RIVERSIDE, CALIFORNIA 92501
(714) 351-8824

P.L. 93-638
FY 90 ATIG
Allocations

March 31, 1989

TO ALL TRIBAL CHAIRPERSONS AND/OR SPOKESPERSONS, SOUTHERN CALIFORNIA BANDS

The following is each Tribe's tentative FY 90 Aid To Tribal Government allocation. The grant/contract applications for FY 90 are due June 12, 1989.

1. Barona	7,201.00	14. Pala	8,065.00
2. Cabazon	5,131.00	15. Pauma	5,692.00
3. Cahuilla	5,776.00	16. Pechanga	8,799.00
4. Campo	5,603.00	17. Rincon	7,395.00
5. Cuyapaibe	5,089.00	18. San Manuel	5,419.00
6. Inaja	5,089.00	19. San Pasqual	7,279.00
7. Jamul	5,314.00	20. Santa Rosa	5,718.00
8. La Jolla	7,017.00	21. Santa Ynez	6,169.00
9. La Posta	5,073.00	22. Santa Ysabel	9,994.00
10. Los Coyotes	6,111.00	23. Soboba	8,799.00
11. Manzanita	5,272.00	24. Sycuan	5,629.00
12. Mesa Grande	5,367.00	25. Torres-Martinez	6,520.00
13. Morongo	10,219.00	26. Twenty-Nine Palms	5,084.00
		27. Viejas	6,116.00

Sincerely,

Fred C. [Signature]
Acting Superintendent

cc: Contracting Officer, SAO
Indian Self-Determination Coordinator, SAO

UNITED STATES
DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS
SOUTHERN CALIFORNIA AGENCY

P.L. 93-638
FY 89 Fire
Allocations

October 27, 1988

TO ALL TRIBAL CHAIRPERSONS AND/OR SECRETARIES, SOUTHERN CALIFORNIA AGENCY

The following is each Tribe's revised Structural Fire Protection allocation based on the FY 89 budget.

1. Barona	11,316.00	15. Pala	21,336.00
2. Cabazon	1,650.00	16. Pauma	4,126.00
3. Cahuilla	6,366.00	17. Pechanga	11,670.00
4. Campo	2,829.00	18. Ramona	118.00
5. Capitan Grande	354.00	19. Rincon	12,377.00
6. Cuyapaipe	472.00	20. San Manuel	2,947.00
7. Inaja	118.00	21. San Pasqual	3,654.00
8. Jamul	1,532.00	22. Santa Rosa	1,415.00
9. La Jolla	8,134.00	23. Santa Ynez	5,894.00
10. La Posta	236.00	24. Santa Ysabel	5,422.00
11. Los Coyotes	2,358.00	25. Soboba	8,605.00
12. Manzanita	1,415.00	26. Sycuan	1,886.00
13. Mesa Grande	1,886.00	27. Torres-Martinez	3,654.00
14. Morongo	20,157.00	28. Viejas	5,069.00

Sincerely,

Mike Eugene Zuniga

Acting Superintendent

cc: Contracting Officer, SAO
Indian Self-Determination Coordinator, SAO

PREPARED STATEMENT OF ERNIE SALGADO JR.

My name is Ernie Salgado Jr., I am a member of the Soboba Tribe. I am honored to offer this testimony on Indian Education in regards to Indian people from Southern California Indian Tribes.

I have been directly involved in Indian Education since 1975 as executive director of Ahmim Education Inc., a reservation based non-profit organization.

The Southern California Indian Tribes have identified three major educational concerns; money or the lack of it, program cash flow and restrictive regulation.

First, the funds for Indian Education have been reduced more than 50 percent in the last decade. For example, in 1979 Johnson O'Malley funding was \$200 per student with over 8,000 students participating state-wide; today the funding is less than \$90 per student with less than 3,500 students participating state-wide.

Second, program cash flow has caused many tribes to not apply or drop contracting educational funds from the Bureau of Indian Affairs. The problem is caused by the Bureau of Indian Affairs Contracting department not sending funds on a timely basis. A good example is today. The majority of the programs that are contracting educational funds under the authority of P.L. 93-638 have not received any funds for fiscal year 1989. Yes, the regulation provides for advance funding and they also provide for letter of credit as well as cost reimbursement; yet, we are still waiting for funds.

One of the intents of P.L. 93-638 was to separate education from other Bureau programs, which was done, but contracting was left to its own device thus leaving the Indian Tribes and providers of educational programs with out the funds to meet the educational goals and objectives they contracted to provide. Many school districts and Tribes refuse to contract with the Bureau for educational programs to provide services for American Indian students because of the contracting problems.

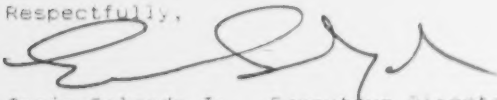
Thirdly, restrictive regulations have done more to impair Indian Education than all the issues combined. Higher Education regulation requires that the Indian student submit applications for funding thru the college the student plans to attend. This in itself does not sound unreasonable to you as non-Indians and it's not. But, the real problem begins because the majority of the financial aid officers at the colleges and universities are operating under a different standard than the Indian people and the bureau of Indian affairs originally started under. The Indian students seem to get lost in the shuffle, becomes frustrated and we have another drop out. Many don't even bother to apply because of the experiences of older siblings or Tribal members.

In summary, we would like to recommend that Indian Education funds be increased, Bureau of Indian Affairs contracting be held accountable and separate from contracting and the regulation for education be waived for five years.

We also recommend that a separate Education Board be established state-wide in conjunction with the proposed S-ell legislation.

Senator, again I thank you on behalf of the Southern California Indian Tribes and Indian people for allowing us this opportunity to present our concerns and for your involvement in our plight.

Respectfully,

A handwritten signature in dark ink, appearing to read 'Ernie Salgado Jr.', with a stylized, flowing script.

Ernie Salgado Jr., Executive Director
Anniun Education, Inc.

TESTIMONY

Dear Mr. Chairman,

My name is Margaret Skare, a Santa Ysabel Band of Mission Indians, Tribal Member. I appreciate the opportunity to provide testimony today.

I have been involved in the Bureau of Indian Affairs and Indian Health Service and Tribal Consultation meetings concerning the "Indian Self-Determination and Education Act Amendments of 1988", now known as Public Law 100-472.

In 1970, a "Special Message to Congress on Indian Affairs" given by former President Richard Nixon, states in part "for years Congress has talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurated with our promises". Under Public Law 100-472, the Indian Tribes now have the right to determine whether it's willing to assume administrative responsibilities for a service program which is presently administered by a Federal Agency. This Public Law is "to provide maximum Indian participation in the Government and education of the Indian people".

An essential factor in the success of the policies of Indian self determination is that, it ensures Tribe's to plan and deliver services appropriate to their diverse demographic, geographic, economic and institutional needs.

Public Law 100-472 provides Tribe's with the opportunity to design and implement policies appropriate to their local needs. To be able to accomplish this goal, the small Tribe's in Southern California insist that a base funding of Indian Self-Determination Grants and Contracts be established at \$200,000.00 per Tribe and additional funding thereafter during each fiscal year, based on appropriate funds and to be determined on a equitable formula which includes population, membership, land area and relative costs of living.

The Southern California Tribe's need the full cooperation of Agency, Area and Central Offices in regards to a equal division of the funds.

Small Tribe's need to have the right of opinion of either, (1) negotiating an indirect cost rate or (2) obtaining a flat rate of twenty five percent (25%), which is ever is greater. If Tribe's are required (forced) to have in-direct cost rates in order to obtain contract support, this could effectively deny a Tribe both (1) an in-direct rate and (2) contract support. Small Tribe's should be given the option of either negotiating an in-direct cost rate, if they choose and can do so, or receiving a contract without a negotiated rate.

Mr. Chairman, approximately two (2) weeks ago I received the first (1st) draft of the Public Law 100-472 Regulations with a copy of the recent Update (April 10, 1989) from the U.S. Department of Health and Human Services. The Update, stated,

"Because of the amount of Indian Health Service funds already spent on Public Law 93-638 Amendments activities, Indian Health Service would not fund Tribal participation for Regulations Drafting Workshop III (Page 1)". However, Indian Health Service will continue to meet with the Steering Committee, which has Tribal participation paid for by this Agency. I'm not sure where the Bureau of Indian Affairs stands with this discussion and the Tribe's would be interested in knowing. It is my understanding the Bureau of Indian Affairs personnel are also involved with the Steering Committee. The Up date then goes into regulations development, Scheduled Revision, this schedule change is NOT the consensus of Small Tribe's. At the National workshops, the representatives agreed to December 29, 1989 to publish Final Regulations in the Federal Register. This change is schedule again shows me that the Tribe's have again been promised by a law, to be self determined and again Federal authorities and not the Indian people who finally made that decision.

In the Act, "Congressional Findings", Congress states after careful review, section 2 (a)(1), the prolonged Federal denomination of Indian service programs has served to retard rather than enhance the progress of Indian people and their communities by depriving Indians of the full opportunity to develop leadership skills crucial to the realization of Self-Government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of

Indian communities.

It is imperative that the "Declaration of Policy" section 3(a) be reviewed for complete understanding, it states "The Congress hereby recognizes the obligation of the united States to respond to the strong expression of the Indian people for Self-Determination by assuring maximum Indian participation in the direction of education as well as other Federal Services to Indian communities as to render such services more responsive to the needs and desires of those communities.

Mr. Chairman, Public Law 100-472 is a law reacted for Tribe's not Agencies and they need to include the Tribe's in all phases of it's process. The ending document, the Tribe's will have to assume administrative responsibilities not Agencies.

ESCONDIDO, CALIFORNIA ON NOVEMBER 30, 1988

WHEREAS: PL 100-472 will have impact on all federally recognized tribes in the United States and,

WHEREAS: The Southern California Tribes call attention to, and reinforce the intent of section 102 of the amendments insisting the need for the Federal Government to recognize the diversity of individual tribes and because of the uniqueness of small tribal circumstances it is imperative and essential for the Federal Government to insist that small tribe needs be emphasized on a tribe-by-tribe basis,

BE IT FURTHER RESOLVED: that the small tribes in Southern California insist that a base funding of Indian Self-Determination Grants and Contracts be established at \$200,000 per tribe and additional funding thereafter during each fiscal year based on appropriated funds and to be determined on an equitable formula which includes, population, membership, land area and relative area costs of living.

At a meeting held by the Bureau of Indian Affairs, Southern California Agency on November 29 & 30, 1988 in Escondido, California where fifteen tribes were in attendance, the foregoing resolution was adopted by the following signatures of official delegates, representatives and members present.

[illegible][illegible]

Cleason Lockman mesa Grande Band, Council member
 Richard M. Milam, AGUS CAHUTE BAND CAHILLA INDIAN

William W. W. Cahilla Reservation

Santa Ynez Indian Reservation
 Santa Ynez Indian Reservation, Santa Ynez, Ca. 92088
 Santa Ynez Indian Reservation, Santa Ynez, Ca. 92088

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 Santa Ynez Indian Reservation, Santa Ynez, Ca. 92088

TITLE

WHEREAS: PL 100-472 Indian Self-Determination Amendments to PL 93-638 was enacted on October 5, 1988, and

WHEREAS: PL 100-472 will have an impact on all federally recognized tribes in the United States, and

WHEREAS: Those Tribes in Southern California agreed that it is imperative that in the formulation of the final regulations of PL 100-472, special consideration and specific language be developed to assure that the small Tribes have an opportunity to achieve Self-Determination, and,

WHEREAS: The Southern California Tribes call attention to and reinforce the intent of section 102 of the amendments insisting the need for the Federal Government to recognize the diversity of individual tribes and because of the uniqueness of small tribal circumstances it is imperative and essential for the Bureau of Indian Affairs to send at least 2 representatives from each agency to the regulation drafting workshop to be held in Nashville, Tennessee on February 28 - March 3, 1989, and,

THEREFORE, BE IT RESOLVED: that the tribes in Southern California assembled today by acclamation agree that it is imperative that these Bureau of Indian Affairs representatives attend this vital workshop to assure equal representation at this national meeting.

BE IT FURTHER RESOLVED: the small tribes in Southern California insist that a base percentage be implemented in contracts and set a 25% for indirect cost Rate for the tribes and additional funding thereafter during each fiscal year based on appropriated funds.

14 CERTIFICATION

At a meeting held by the Bureau of Indian Affairs and Indian Health Services on February 13, 1989 in Riverside, California, where the elected officials for the Southern California Tribes were present, the foregoing resolution was passed.

<u>Francis Shaw - Chairman</u> <u>San Antonio</u>	<u>Frederick Shaw - Santa Fe - Delegate</u>
<u>Joseph M. L. - Chairman</u> <u>San Antonio</u>	<u>Palala Guff Camps - Chairman</u>
<u>1. Joseph M. L. - Chairman</u>	<u>Marathy K. K. - Santa Fe - Delegate</u>
<u>2. Joseph M. L. - Chairman</u>	<u>Clean Lo Chusa - Mesa Grande Band</u> <u>Councilman</u>
<u>Robert H. L. - Pala Vice-Chair</u>	<u>Joe Shaw - Morongo</u>
<u>Vida B. B. - Canyon La Jolla</u>	<u>Bernie L. L. - Chaco</u>
<u>Aggie G. L. - Santa Fe - Vice Chairman</u>	<u>Tony Pinto - Chaco</u>
<u>Joseph M. L. - Chairman</u>	<u>Cliff M. L. - Chaco</u>
<u>James J. L. - Council</u>	<u>Christina M. L. - Council T.M.</u>

UPDATES -

P.L.93-638 AMENDMENTS

April 16, 1989



U.S. Department of Health and Human Services
Public Health Service
Indian Health Service
Office of Tribal Activities

RDW II - MORE TRIBAL PARTICIPATION

As agreed at Regulations Drafting Workshop (RDW) I (February 28 - March 3 in Nashville), representatives of Tribes and Tribal Organizations, Indian Health Service (IHS), Bureau of Indian Affairs (BIA), and other organizations reconvened at RDW II in Albuquerque on March 21, established a few ground rules, and proceeded with page 50 of the Working Document used at RDW I. The Working Document was a compilation of Administrative, Construction, Program, and Resources Work Group Reports.

One issue concerned the meaning of "votes". It was agreed that, as at RDW I, votes reflected the majority opinion of RDW participants, but were not formally binding on the IHS, BIA, or Tribes or Tribal Organizations (refer to UPDATES 3/16/89).

Lionel John, Co-Chair of the P.L. 93-638 Amendments Steering Committee, led the 310 participants in a line-by-line review of the remaining 57 pages of the Working Document. Issues were discussed in general session. Different view points were exchanged. Where differences could not be reconciled, Lionel, as at RDW I, invited small groups of persons to go to a special caucus (referred to as "the woodshed") to resolve differences and prepare a proposal for presentation to the general session.

After completing pages 50 - 107 of the Working Document, the group reviewed issues considered at RDW I (pages 1-49) by examining IHS and BIA concerns and positions which had been developed,

as requested, during the two weeks between RDW I and RDW II. The work of RDW II was completed on March 24.

There was discussion of the possibility of another meeting, called RDW III, to be held after the next round of joint IHS/BIA Tribal meetings in the Areas. Mr. Robert Singyke, Deputy Director, IHS, responded that, if there is an RDW III, IHS staff would participate but, because of the amount of IHS funds already spent on P.L. 93-638 Amendments activities, the IHS would not fund Tribal participation for RDW III. Ron Peake, BIA P.L. 93-638 Amendments Coordinator, said that BIA could not agree to RDW III, but agreed to discuss the matter with the Acting Assistant Secretary, Indian Affairs. Lionel John and Ron Allen, Portland Area Tribal Representative on the Steering Committee, announced arrangements for a delegation of Tribal representatives from RDW II to meet with the Acting Assistant Secretary, Indian Affairs on March 31 to discuss RDW III and other issues. **NOTE:** The meeting did occur and the Acting Assistant Secretary, Indian Affairs indicated that he would discuss the issues with the Director, IHS during the week of April 3 before a final decision was made - see next article "Regulations Development Schedule Revised".

The same delegation also met with representatives from the Office of Management and Budget (OMB) to brief them on tribal participation in the regulations development process.

The RDW II Working Document describing results of both RDW I and II is being mailed to persons on the mailing list and to RDW I and II participants.

REGULATIONS DEVELOPMENT SCHEDULE REVISED

Tribes are indicating a desire for a document which clearly expresses the IHS and BIA positions on issues discussed at RDWI and II. The IHS and BIA, therefore, are developing the draft joint Notice of Proposed Rulemaking (NPRM) which will represent IHS and BIA positions on these issues.

The RDW II Working Document is the basis for development of the draft joint NPRM which will be distributed before the next round of joint IHS/BIA/Tribal meetings in the Areas. The purpose of the joint meetings is to review the draft NPRM. The results of the draft NPRM review will be considered before the IHS and the BIA submit the NPRM for clearance by their respective Departments, the OMB, and Congressional Committees. After such clearance, the NPRM will be published in the Federal Register for a 60 day public comment period for further Tribal review.

The possibility of an RDW III, as proposed at RDW II, has been considered. The Director, IHS and Acting Assistant Secretary, Indian Affairs decided on April 6 that since the work of RDW I and II and this phase of consultation was completed at Albuquerque, it is time to move on to the next phase. Thus, **there will be no RDW III.**

The Steering Committee could accomplish the same objectives as had been proposed for an RDW III. The IHS therefore, will continue to:

1. Meet with the Steering Committee - note dates on revised schedule.
2. Provide P.L. 93-638 Amendments material to Tribes and Tribal Organizations.
3. Meet with Tribes to discuss P.L. 93-638 Amendments concerns and issues.
4. Listen to Tribes' concerns about these issues.

The regulations development schedule is revised to provide additional time for IHS and BIA to prepare the draft NPRM, for Tribal participation in reviewing the draft NPRM, and to meet minimum time requirements for clearance by the Departments, OMB, and Congressional Committees.

The additional time included in the revised schedule is:

1. 8 weeks IHS/BIA prepare and clear draft NPRM.
2. 1 week Tribal/IHS/BIA study of draft NPRM.
3. 1 week Receive, copy, and mail results of joint meetings in Areas to Steering Committee members.
4. 1 week Steering Committee meeting to review results of joint meetings.
5. 2 weeks Revise draft NPRM based on results of joint meetings in Areas and Steering Committee meeting.
6. 8 weeks Minimum requirements for review and clearance of NPRM by Departments, OMB, and Committees.
7. 4 weeks IHS/BIA analysis of comments on NPRM, revise regulations.
8. 6 weeks Minimum requirements for review and clearance of NPRM by Departments and OMB.

31 weeks Total additional time.

The newly revised schedule now in effect is:

NOTE: The following target dates are estimates based on the minimum time required by the various steps. They are presented in order to outline the process. Any slippage at any stage will delay the publication date of the Final regulations an equivalent period of time.

New Dates	Old Dates	Action
4/4-12		Copy and mail RDW II Working Documents to RDW I and RDW II participants and persons on mailing list.
4/3-5/12	3/27-4/14	IHS and BIA prepare Notice of Proposed Rulemaking (NPRM) using RDW II Working Document as basis.
5/15-19		Mail draft IHS NPRM to Steering Committee for study.
5/23-24		Steering Committee meeting to review draft IHS NPRM.
5/30-6/2		IHS/BIA refine draft joint NPRM.
6/5-9		IHS/BIA clear draft joint NPRM with Director, IHS and Assistant Secretary, Indian Affairs. (Hereafter, all references to draft NPRM mean draft joint NPRM.)
6/12-16	4/17-21	Copy draft NPRM and mail to persons on mailing list.
6/19-7/7	4/24-5/5	3 weeks to study draft NPRM before joint IHS/BIA/Tribal meetings in Areas.
7/10-14	5/8-12	Joint IHS/BIA/Tribal meetings in Areas to review draft NPRM.
7/17-28	5/15-19	Receive, copy and mail results of joint IHS/BIA/Tribal meetings to Steering Committee members.
8/1-2 (?)		Steering Committee meeting to review results of joint meetings.
8/7-25	5/22-26	Revise draft NPRM based on results of joint IHS/BIA/Tribal meetings and Steering Committee meeting.
8/23-25 (?)		Steering Committee meeting to review revised NPRM before clearance.
8/28	5/29	IHS/BIA submit NPRM for clearance by Departments (DHHS and DOI), OMB, and Congressional Committees.
10/27/89		60 days (minimum) required by DHHS to review, clear NPRM.
11/27/89		30 days (minimum) required by OMB to review, clear NPRM.

New Dates	Old Dates	Action
12/27/89		30 days for Congressional Committee review before publication of NPRM.
12/29/89	7/31	Publish NPRM in Federal Register.
2/27/90	10/2/89	60 day comment period ends.
3/29-4/29/90	10/27/89	IHS/BIA complete analysis of public comments and develop final regulations.
5/6-7/90	10/31/89	IHS/BIA clear regulations with Director, IHS and Assistant Secretary, Indian Affairs.
7/7-8/7/90	11/7/89	Submit final regulations to Departments/OMB for clearance.
8/10/90	12/29/89	Publish final regulations in Federal Register.

**DEPARTMENT OF
HEALTH & HUMAN SERVICES**

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Indian Health Service
Rockville, MD 20857

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**Pala Band Of
Mission Indians**

P.O. Box 43
Pala, California 92059-0043
(619) 742-3784

To : Senator Daniel K. Inouye
Honorable Members of the Senate Select Committee
on Indian Affairs

From : Patricia R. Nelson, *Chairwoman*
Pala Band of Mission Indians

On behalf of the Pala Band of Mission Indians, and the 646 Band members we represent, we wish to express our appreciation for the opportunity to speak before this body today. The Pala Band commends you Senator Inouye for your interest in our people and we offer this testimony with the intention of providing an accurate and concise picture of our problems, our fears and our desires.

The Pala reservation is situated in the most affluent and prosperous section of north San Diego County. The land adjacent to ours is nurtured, cultivated, and blanketed by citrus, avocados, golf courses, and million dollar homes while our 11,000 acres sits barren, riddled with abandoned vehicles, dirt roads and littered with bags and barrels of trash and chemicals dumped by evasive non-Indians.

The Pala reservation is not now how we'd like it to be - the membership of the Band is frightened by the many non-Indians who have made our home a dumping ground for their illegal chemicals; a point of sell for illicit drugs and weapons; a night time playground for those of us who have succumbed to the hook of drugs and alcohol.

We want very much to take charge - to restrict, expel, and confine those that break your laws and ours. Yet, we are made powerless by the nebulous language of Public Law 280, and impotent by the lack of funds or support from either the State of California or the Bureau of Indian Affairs. Instead, we tread lightly, and beseech all Gods to watch over our children, our seniors, and the innocent whose very lives are now in danger.

We want very much to take responsibility for those who have become anesthetized to the pain of poverty and unemployment by drugs and alcohol. We want to take them and lead them to recovery - yet, we are made helpless by the absence of funds with which to do so. As Tribal

leaders we are left feeling unbefitting of our positions as we search, in vain, for beds in half-way houses, or rehabilitation centers - beds that simply are not, and never will be there - beds that only money can buy.

We want to take our land and use it, just as our non-Indian neighbors do now, to become self-sufficient, strong, and capable. And yet, we find that the costs associated with developing a viable business plan are considerable and the processes involved mystifying to most tribal decision-makers, the people. When the membership was once asked to spend \$30,000. on a feasibility study and market analysis, one Band member asked, "What if it shows the idea won't work?" "We'd just lose the money and get nothing in return. . .". The idea of being "careless" with what little money the Band now has is abhorrent - the Pala Band, like most, has gone through decades of "study" - always by someone else, seldom, if ever with any result.

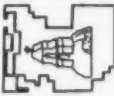
The economic development process is the most critical issue facing the Pala Band. The need to start some type of income generating activity is an immediate, and urgent, need. The Band is anxious to explore the economic development arena, as documented by a recent survey which revealed that 69% of the Pala people supported the initiation of some type of economic enterprise.

The interests of the people is what the Tribal Government is obligated to act on; and yet, we have no support, no money, no agency, no advisor who can facilitate the process. We must find a means of enabling the Pala Band through education of the membership, study, and economic analysis, without high risk, great expense, and much sacrifice by the people.

The Pala Band now contributes almost \$ 100,000. of our own money to our Boys Club, our Cultural Center, our Education Center, and our Fire Department - these are the only avenues open to us - the only shoreline in our ongoing struggle to protect our land, promote our children, and honor our ancestors. The Pala people cannot and should not be asked to forgo support for these causes today, so that a means can be found for an economically stable tomorrow.

We look to you Senator Inouye, the respected members of this Committee, and the Congress of the United States, to assist us in gaining the technical expertise and financial support required to stabilize our economy, be it through seed-money, grants, or loans. We look to you Senator Inouye and the Congress of the United States to assist us in finding a means to implement our programs, and in doing so ameliorate our problems, without taxing our limited financial resources, without hurting those most in need - the Indian people of the Pala Reservation.

Our thanks for this chance to speak with you today - with candor, and sincerity.

 Pala Band Of Mission Indians PO Box 43 Pala, California 92669-0043 (916) 742-3784 1989 Census Report									
POPULATION		Total	%	AGE HEAD OF HOUSEHOLD			INCOME LEVEL		
Male	Female	374	51.7%	18 - 24	4	3	8 5,000. & below	39	26 %
		400	49	25 - 34	49	25	5,001 - 10,000	35	23
Native American		445	58 %	35 - 44	49	25	10,001 - 15,000	25	16
		47	12	45 - 54	36	18	15,001 - 20,000	15	10
White		3	.002	55 - 64	24	12	20,001 - 25,000	12	8
		97	27	65 - 74	25	12	25,001 - 30,000	10	6
Hispanic		0	.005	75 & Over	11	5	30,001 - 40,000	11	7
		32	.026	TOTAL	198	100.0 %	40,001 - 50,000	3	2
Other							over 50,000	3	2
EMPLOYMENT - # Working		LENGTH OF TIME RESPONDENT			EMPLOYMENT CATEGORIES				
None	One	67	33 %	Less than 1 year	10	5 %	Professional/Tech	37	28 %
	Two	33	18	1 - 5 Years	21	10	Admin/Managers	18	13
Three or More		15	4	5 - 10 Years	20	10	Sales	8	6
	TOTAL	98	100 %	10 - 20 Years	36	17	Craftsman	0	0
DESIRED ECONOMIC BASE ACTIVITY				20 - 30 Years	32	15	Clerical	14	11
Yes	No	137	69.4 %	More than 30 Years	89	43	Construction/Labor	23	17
TYPE ECONOMIC ACTIVITY MOST DESIRED				TOTAL	208	100 %	Farm Labor	9	7
Amusement Park				Some Grade School	12	6 %	Personal Household	6	5
	Indian Museum	13.9 %		Grade School	5	3	Other Labor or Service	17	13
Light Industry		12.3		Some High School	58	29	TOTAL	132	100 %
	Resort	11.0		High School Graduate	47	24	CONDITIONS OF RESERVATION		
Heavy Industry		9.8		Some College	57	28	Improved	81	39 %
	Crafts	8.7		College Graduate	3	2	Remained the Same	69	33
Water Resource Marketing		6.3		Some Graduate School	5	3	Worsened	57	27
	Agriculture	4.6		Graduate Degree	10	5	TOTAL	207	100 %
Restaurant		3.6		TOTAL	197	100 %			
	Animal Husbandry	1.2							
None		0.8							
	TOTAL	100.0 %							

SAN LUIS REY INDIAN WATER AUTHORITY									
1989 Census Report - Pala, Pauma, Rincon, La Jolla & San Pasqual									
Demographic Information									
POPULATION									
Total		%		AGE HEAD OF HOUSEHOLD			INCOME LEVEL		
Male	1436	51 %		18 - 24	50	7 %	\$ 5,000. & below	137	29 %
Female	1387	49 %		25 - 34	208	27 %	5,001 - 10,000	170	25 %
Native American				35 - 44	221	29 %	10,001 - 15,000	111	16 %
	1431	58 %		45 - 54	116	15 %	15,001 - 20,000	73	11 %
	White	12		55 - 64	81	11 %	20,001 - 25,000	49	7 %
	Black	5	.004	65 - 74	54	7 %	25,001 - 30,000	40	6 %
	Hispanic	659	26	75 & Over	27	4 %	30,001 - 40,000	29	4 %
	Asian	15	.006	TOTAL	757	100 %	40,001 - 50,000	17	2 %
Other	64	3					over 50,000	4	.005
EMPLOYMENT - # Working									
LENGTH OF TIME RESPONDENT									
None	245	33 %		Less than 1 year	145	19 %	Professional/Tech	130	22 %
One	339	45 %		1 - 5 years	149	19 %	Admin/Managers	43	7 %
Two	138	18 %		5 - 10 years	101	13 %	Sales	26	4 %
Three or More	30	4 %		10 - 20 years	135	17 %	Craftsmen	22	4 %
TOTAL	752	100 %		20 - 30 years	67	9 %	Clerical	41	7 %
				More than 30 years	177	23 %	Construction/Labor	113	19 %
				TOTAL	774	100 %	Farm Labor	92	16 %
DESIRED ECONOMIC BASE ACTIVITY									
LEVEL OF EDUCATION									
Yes	344	77 %		Some Grade School	47	7 %	Personal Household	32	6 %
No	105	23 %		Grade School	33	5 %	Other Labor or Service	88	15 %
TYPE ECONOMIC ACTIVITY MOST DESIRED									
Water Resource Marketing	18			Some High School	209	31 %	TOTAL	587	100 %
Indian Museum	14			High School Graduate	168	24 %	CONDITIONS ON RESERVATION		
Amusement Park	13			Some College	184	27 %	Improved	269	36 %
Resort	12			College Graduate	11	2 %	Remained the Same	323	44 %
Light Industry	11			Some Graduate School	12	2 %	Worsened	131	20 %
Heavy Industry	9			Graduate Degree	19	2 %	TOTAL	745	100 %
Crafts	7								
Other	5								
Agriculture	5								
Restaurant	4								
Animal Husbandry	1								
None	1								
TOTAL	100								



**Pala Band Of
Mission Indians**

P.O. Box 43
Pala, California 92059-0043
(619) 742-3784

THE PALA BAND
General Information

The Pala Band of Mission Indians is comprised of 646 enrolled members of Cupeno or Luiseno descent. The reservation was purchased with the intent of providing a home to a small Band of "Cupeno" who were then living at Warners Hot Springs. The historical homesite, Warner Hot Springs, was given away via a Mexican Land Grant. The United States Government supported this action and used federal troops to relocate the Cupeno to Pala in 1903. Cupeno is Spanish and means the people who live by the warm waters. When the Cupeno arrived at Pala, there was also a small Band of Luiseno, originally affiliated with either the Rincon or Pechanga Bands, living there; thus the placement of two different Tribes on one reservation - not common in Southern California.

The federal government provided prefab homes, shipped in from New York, in replacement for the adobe dwellings the people had constructed at Warners. These one room units offended the people since they were inferior in both size and quality to what they left behind. These prefab units were placed in one central area, called the village. One still stands. The reservation is 11,000 acres, the majority of which is in the mountains behind the village. Pala means water in our language.

The Pala Executive Committee is elected by the General Membership to conduct the business of the Band. They are:

Patricia R. Nelson, Chairwoman
Debora Smith, Secretary
Henry Smith, Committee Memoer

Robert Smith, Vice-Chairman
Loretta Linton, Treasurer
**Jane Blackmon, Committee
Member**

The Band maintains a tribal office which employs a team of tribal members to provide the membership with services in the area of water, sewer, cable, road maintenance, enrollment & membership records, land records. They are: **Debbie Smith, Nikki Freeman, Carmelita Ryan, Teresa Skaggs, Neomi Boles, Walter Smith, Doug Freeman, Leatha Diaz, Mike Guachino.**

PALA SECURITY DEPARTMENT - In 1977 the Pala Band obtained an employment position through the Comprehensive Employment and Training Act to hire a Security man. This individual, **Henry Smith**, is responsible for patrolling the reservation and coordinating our law and order needs with the local sheriffs department. In 1979 when CETA funds became unavailable the Band allocated the money to continue the position. The increase in resident population prompted the Band to add another security position, filled by tribal member **Leroy Miranda** in 1988. The Band contributes \$30,000. for this service.

PALA FIRE DEPARTMENT - Located in the heart of the village, the Pala Fire Department started in 1980 with \$ 27,000. in fire protection funds available from the Bureau of Indian Affairs. The 1990 allocation will be \$13,000. In 1988 the Band contributed \$60,000. for the construction of permanent facilities. A Captain and two firefighters, with the cooperation and support of a team of fourteen (14) community volunteers, man the station 24 hours per day. The Band contributes \$58,000. to augment BIA funds.

The Captain of the Department is **ROBERT SMITH**. Firefighters are **Juan Luna** and **Kyle Perez**. Secretary for the department is **Marisa Ravago**. Volunteers are:

Anthony Ravago, Sr.	Mario Moro	
Leroy Hutton	David Garcia	
Jaime Luna	Shelia Smith	
Henry Smith	Chuck Gabbard	
Tony Suarez	Roy Nieto	Carol Coultriss, Jr.

All of the above are Firefighters and 6 are certified as Emergency Medical Technicians (EMTs). They are all tribal community residents. The Volunteers have meetings once a month at which they plan their training, education, and work schedules. They also hold various types of fund-raisers throughout the year, such as food sales, raffles, and dances to contribute to the support of the Station. Last year this group raised \$3,000.

PALA AVOCADO PROJECT - At 55 acres the Band has one of the largest avocado groves in the valley. The project began in 1979 with funds received from the Department of Housing and Urban Development, CETA (private sector initiative), and the Economic Development Administration. The Band invests approximately \$50,000 per year for maintenance, management and repairs. The project returned \$105,000. in 1988. The goal is to expand the grove to 250 acres, as per the wishes of the Membership. The Grove is maintained by a management contract with **Jim Devers** who employs tribal member **Charles Lawton** as his assistance.

CULTURAL CENTER - This combination cultural center, museum, and craft classroom, was built entirely with donations from Pala and neighboring communities. It was constructed in memory of the move from our original homesite, Warners Hot Springs, to Pala in 1903. The Band contributes \$15,000. annually to defray operating and instruction costs. The Director of the Center and Chairman of the Board is **CLIFFORD "Tanty" DIAZ**, an enrolled Pala Band member. His salary, as well as the cost of craft supplies and equipment, is paid through a grant received from the California Community Arts Foundation. The Center holds beading, pottery, and other "Indian" craft classes for community residents on a regular basis. The Cupa Cultural Center holds a yearly festival in honor of the move the first part of May each year. This is their major fund-raising event. All other community non-profit organizations have booths to raise funds for their individual interests/projects at this event as well.

Tribal Members of the community who sit on the Cultural Center Board of Directors are:

Helen Crane, Vice-Chairwoman Carmelita Ryan, Secretary
Margaret Hilton, Treasurer Jane Blackmon, Member
Patricia Agneta, Member Carol Hutton, Member
 Secretary for the Cultural Center is **Lela Gabbard**.

PALA BOYS & GIRLS CLUB - The Band paid for the construction of this facility from tribal funds in 1980. Community volunteers donated labor, materials, and time to complete the project. It now receives \$20,000 from the United Way, via the Fallbrook Boys & Girls Club, and \$20,000 from the Band. It is the only official branch of a Boys & Girls Club on an Indian reservation. The club services the 500 (+) children of the reservation. It is directed by **DAVID GARCIA**, an enrolled member of the Rincon Band.

Lee Ann Hayes Angelo Lavato Eugene Magee
Mario Moro Jane Blackmon

PALA MISSION & SCHOOL - The Mission San Antonio de Pala was built as a substation to the Mission San Luis Rey in Oceanside in 1814. The Mission will be celebrating its 175th Birthday next week with a special mass said by the Bishop. The interior of the church is quite beautiful and is the only part of the California Mission system that still ". . serves the Indians." It was built with Indian labor.



**SAN LUIS REY
INDIAN
WATER AUTHORITY**

A Tribal Corporation Serving
the La Jolla, Rincon, Pala,
San Pasqual and Pauma Bands
of Mission Indians

SENATOR INOUE and Members of the Committee:

Executive Board

Henry N. Rodriguez
President, La Jolla

Edward T. Arviso
Vice President, Rincon

Patricia R. Nelson
Treasurer, Pala

James Ousquis
Secretary, San Pasqual

Leland A. Majal
Committee Member, Pauma

Directors

Robert Liffon
La Jolla

Douglas Catic
Rincon

Stan McLean
Pala

Paul Contreras
San Pasqual

Benjamin Magante
Pauma

My name is Henry Rodriguez. I am an enrolled member of the La Jolla Band of Mission Indians.

I'd like to thank you for the opportunity to speak before this body today and do so in my capacity as President of the San Luis Rey Indian Water Authority.

The San Luis Rey Indian Water Authority is a tribally chartered organization created to represent the interests of the Pala, Pauma, Rincon, La Jolla and San Pasqual Bands in litigation over the rights to the San Luis Rey River.

The dispute, which involved the diversion of the water of the San Luis Rey River into the cities of Escondido and Vista, was resolved by the 100th Session of Congress with their passage of S. 795, the "San Luis Rey Indian Water Rights Settlement Act". The passage of this Act represents the first opportunity in over 100 years for the Bands to take full responsibility for the future. It concludes 20 years of deprivation and signals the start of a new era whereby the 5 Bands may build new life on the reservations, renew lost hopes and promote self-sufficiency through the creation of economic opportunities.

Briefly, the legislation authorizes an allocation to the Bands of 16,000 acre feet of water and a \$ 30 million dollar economic development trust fund. The water will be available to support the domestic, irrigation, and industrial needs of the Bands while the trust fund may be leveraged to address capital requirements of desired enterprises.

While a conclusion to our dispute with the cities of Escondido and Vista represents a giant step towards self-sufficiency, it cannot be considered a panacea to all of the Bands problems. The Authority has been given very clear and direct guidelines, by the Congress, to utilize all resources generated through, and by, a settlement to support the economic growth and development of our reservations. The Authority cannot be expected to either supplant Bureau of Indian Affairs, Public Indian Health, or other agency services or monetarily support the operations of programs to accommodate specific social, cultural, or health needs.

The fears of the community have been fueled of late by a series of crimes on all of the reservations served by the Authority. Murders, drug arrests, drive-by shootings, child abuse, and other types of violations common to economically depressed communities, are now regular occurrences on our

Post Office Bdx 428
Pauma Valley, California 92061
(619) 742-1903

reservations. Solutions must be found for these and other problems which negatively impact the health, safety and well-being of our tribal communities. Solutions, however, cost money - money that that Bands simply do not have.

Environmental problems, which will be addressed in more detail by the Rincon Band, are other areas of major concern. The County of San Diego is looking for a site for the placement of a municipal land fill and is considering two areas both of which are adjacent to the Pala reservation.

One of the proposed dump site abuts a large rocky mountain, called Indian rock, which was historically used by the Luiseno for religious purposes. This mountain is believed to be the home of a mystical religious figure central to their religion and culture. Yet, this value is readily discounted by County officials whose concerns are for the "...500,000 people..." for whom a dump must be found.

The Bands are also concerned about the potential of both dump sites to contaminate the ground water and while the Pala Band, and their tribal neighbors, have gone on record in opposition to the two sites under consideration, the Band has neither the financial resources, nor the technical support from the Bureau of Indian Affairs, or any other agency, to provide the hydrological studies needed to document the potential of contamination.

The Southern California Bands are more often than not helpless and unable to take full responsibility for ourselves, our people, and our resources. We have neither the money, nor the expertise, to initiate the types of drug and alcohol recovery or counseling programs we need and desire. There is no agency, no vehicle, no funding allocation that we can look to for assistance with the types of educational, cultural, or training programs we need and desire.

And so Senator Inouye, and honorable members of the Committee, please be aware that in Southern California there exists a very real, and ever present, need to provide the Bands with some type assistance, be it financial or technical. We must become more enabled; we must have available the resources with which to protect the Bands from situations which might be harmful to the health, safety and well being of the memberships.

We honestly believe that the Bureau of Indian Affairs, as part of their trust responsibility, must be more instrumental in providing us with the means to challenge the plans of developers and others whose sole objective is to make a profit at the expense of the people who live on the reservations.

We honestly believe that the problems of our 5 reservations will continue to increase, just as they have over the last 20 years, until such time as the Congress of the United States corrects the inequity in funding to California Indians by the Bureau of Indian Affairs. Until such time, the Southern California Indians will continue to fend for themselves, continue to attempt our own corrections, insufficient though they might be, all at tremendous cost to the livelihood, the environment, and the

spirit of our people. We need your help, Senator Inouye, and the help of the Congress of the United States, to provide us with the type of technical and financial infusion that will bring our tribal communities back to life.

Thank you.

A:\HENRY

 SAN LUIS REY INDIAN WATER AUTHORITY 1989 Census Report - Pala, Pauma, Rincon, La Jolla & San Pasqual Demographic Information									
POPULATION		Total	%	AGE HEAD OF HOUSEHOLD			INCOME LEVEL		
Male	Female	1436	51 %	18 - 24	50	7 %	\$ 5,000. & below	197	29 %
		1387	49 %	25 - 34	208	27 %	5,001 - 10,000	170	25 %
				35 - 44	221	29 %	10,001 - 15,000	111	16 %
	Native American	1431	58 %	45 - 54	116	15 %	15,001 - 20,000	73	11 %
	White	292	12 %	55 - 64	81	11 %	20,001 - 25,000	49	7 %
	Black	5	.004 %	65 - 74	54	7 %	25,001 - 30,000	40	6 %
	Hispanic	659	26 %	75 & Over	27	4 %	30,001 - 40,000	29	4 %
Asian		15	.006 %	TOTAL	757	100 %	40,001 - 50,000	17	2 %
Other		64	3 %				over 50,000	4	.005 %
EMPLOYMENT - \$ Working									
EMPLOYMENT - \$ Working		LENGTH OF TIME RESPONDENT				EMPLOYMENT CATEGORIES			
None	One	245	33 %	Less than 1 year	145	19 %	Professional/Tech	130	22 %
	Two	339	45 %	1 - 5 years	149	19 %	Admin/Managers	43	7 %
	Three or More	138	18 %	5 - 10 years	101	13 %	Sales	26	4 %
	TOTAL	752	100 %	10 - 20 years	135	17 %	Craftsmen	22	4 %
DESIRED ECONOMIC BASE ACTIVITY				20 - 30 years	67	9 %	Clerical	41	7 %
				More than 30 years	177	23 %	Construction/Labor	113	19 %
				TOTAL	774	100 %	Farm Labor	92	16 %
TYPE ECONOMIC ACTIVITY		LEVEL OF EDUCATION							
Most Desired	Yes	344	77 %	Some Grade School	47	7 %	Personal Household	32	6 %
	No	105	23 %	Grade School	33	5 %	Other Labor or Service	88	15 %
				Some High School	209	31 %	TOTAL	587	100 %
				High School Graduate	168	24 %	CONDITIONS ON RESERVATION		
				Some College	184	27 %	Improved	269	36 %
				College Graduate	11	2 %	Remained the Same	325	44 %
				Some Graduate School	12	2 %	Worsened	151	20 %
				Graduate Degree	19	2 %	TOTAL	745	100 %
				TOTAL	683	100 %			

PREPARED STATEMENT OF JOHN MAZETTI, VICE CHAIRMAN,
RICON AND SAN LUISENO BAND OF MISSION INDIANS,
VALLEY CENTER, CA

ENVIRONMENTAL CONCERNS

The Rincon, San Luiseno Band of Mission Indians is deeply concerned about the environment on the reservation. The land within the boundaries of the reservation ownership status is tribal land, assignments of tribal land, allotments and out of trust fee simple land.

The reservation has approximately 6 parcels of land that are out of trust and are used or have the potential to be used for industrial and commercial or agricultural use. The use of the property is as follows:

1. Survival System International Inc. - Industrial use. This company constructs survival craft for offshore drilling platforms. In the production of this equipment the company uses hazardous material.
2. Walker Wood Products - Industrial use. This company produces cabinets and furniture. In the manufacturing of these products the company sands the material, paints and stains. The sawdust and paint fumes often permeate the area.
3. Mushroom Farm - Agricultural use. The production process for mushrooms requires the use of horse manure, horse stall straw and gypsum. Truck loads of manure are brought to this facility. The odor from this operation is noxious.
4. Automotive Repair/Junk Yard facility - Commercial use. This facility repairs autos and trucks. The repair of these vehicles requires the use of solvents, oil and degreasers.
5. The Plumer property is a 160 acre parcel located in the center of the reservation owned in fee status. The property is one of four being considered for a processing plant of human waste. This processing plant will process sludge (human waste) for various city and county sewer plants located in northern San Diego County. The process will turn sludge into fertilizer. The waste will be trucked to the facility.
6. Cactus Farm - Agricultural use. The farm grows and sells cactus (nopales).

Five of the six parcels listed create or have the potential to create a hazardous situation for the reservation and its residents.

An enclosed E.P.A. letter clearly illustrates the issue of the firms who reside within the boundaries of the reservation on out of trust land. The issue is that the companies tell State and County authorities that they have no jurisdiction within the boundaries of the reservation. Without sufficient funding the Band does not have the ability of properly regulate those enterprises.

It is apparent from the above that an environmental planning staff person is needed to properly oversee and assist the Council in regulating these industries. In order to properly administer environmental controls over these industries two items are needed:

- *Legislation to clearly establish the Bands right to regulate on non-trust property within the boundaries of the reservation, as well as have a sphere of influence over commercial and industrial development near or adjacent to the reservation.

- *Sufficient funding to be able to properly administer and enforce an environmental program.

PUBLIC LAW 280

Law enforcement on the Rincon Indian Reservation has been a continual concern of the Tribal Government. The concern comes from the lack of support and enforcement by County Sheriff's Department. During the 1950's California actually lobbied for and became a Public Law 280 state.

California, by becoming a Public Law 280 state agreed to provide law enforcement protection to Indian Tribes. The state has delegated its responsibility to the County Government to enforce and provide this protection. This enforcement service includes criminal and tribal law, as well as the adjudication of their laws.

The State and County will not enforce tribal law within the boundaries of the reservation. Thus the Tribe has no way of enforcing its law, except going through the civil process. This is costly and our tribal budget cannot afford the cost of this type of litigation.

On criminal matters, the County Sheriff's Office response to criminal activity is almost non-existent. When the Sheriff's Office receives a call regarding gunfire and someone being shot, it often takes them more than one hour to respond to the incident, if at all. With criminal activities of a lesser degree, often the County Sheriff does not respond at all, leaving the reservation with little or no protection.

The San Diego County Sheriff has stated officially that he does not like to provide services to Indian Tribes. This has severely impacted enforcement actions on the reservation. Perhaps the reason for this is due to the reservation not having a taxable base to draw funds from in order to defer the cost of providing law enforcement.

In 1987, the Bureau of Indian Affairs, Riverside Agency was able to obtain one BIA Police Officer detailed from another Area Office. This Officer provided enforcement assistance to 32 different Indian Bands in Riverside and San Diego Counties. This assistance by the BIA proved to be most valuable to us. The assistance provided for a liaison between the Tribes, County and other federal law enforcement agencies, although tribal laws were not being enforced.

Under the Indian Priority System during the past two budget years, the Indian Tribes under the Southern California Agency have made law enforcement a top priority. The BIA has been resistant to deploy more police officers in California due to the state being a P.L. 280 state. The Southern California Agency has decided to enter into a contract with the Riverside County Sheriff's Department.

The contract with Riverside County would be a proto-type that would fund one position at a sergeants level to specifically work with Riverside reservations. A second contract for San Diego would be developed in the future. The cost of these two contracts would be \$100,000 each. These funds are precious to us in view of the very austere budget.

The central concern in this issue is:

1. If the State of California is to provide these services, then why should our precious federal dollars be invested in these contracts.
2. A mechanism for the enforcement of tribal law needs to be developed outside of the civil process.
3. The BIA Public Liaison Police Program needs to be reinstated with one officer for each County (Riverside and San Diego).
4. A mechanism for the method of retrocession from P.L. 280 needs to be developed and a plan for the resumption of tribal authority needs to be developed for those Indian Tribes who wish to retrocede from P.L. 280.

FUNDING

The Rincon, San Luiseno Band of Mission Indians received \$9,556.00 in Aid to Tribal Government funds. The funds received are not sufficient to provide for a full-time secretary for the Rincon Band at minimum wage. It is our understanding the Bureau of Indian Affairs, Central Office is conducting an equity study. The study will improve funding equity levels of the Central, Area and Agency offices.

The realignment of federal funds from various segments of the BIA will have an adverse impact on Tribes who currently receive a substantial amount of funds. Perhaps an approach would be to

provide additional funds to the under-funded areas and a progressive realignment of the budget funds.

A second area of funding concern is that there are several businesses on the reservation that reside on out of trust property. These businesses are taxed by the County and State for property and sales taxes. These funds that are collected are to be used for services back to the community where they were collected for their benefit. To date, this reservation has not received the benefit of these funds to provide additional community services and functions to residents within the reservation. The concern is that if a tribal tax is imposed on top of the other taxes accessed, then those businesses will not be able to compete with businesses outside of the reservation. A directive needs to be developed to the State and County governments who collect these funds. The directives would instruct those governments to return tax funds collected to the tribal government to provide services to residents.

Edward T. Arviso Edward T. Arviso, Chairman

John Mazzetti John Mazzetti, Vice-Chairman

Anita Molly Rounds Anita Molly Rounds, Council

Douglas Calac Douglas Calac, Council

Jack T. Turner Jack Turner, Council

AGUA CALIENTE BAND OF CAHUILLA INDIANS

April 27, 1989

Senator Inouye and Members of the Committee:

My name is Richard M. Milanovich. I am the Chairman of the Agua Caliente Band of Cahuilla Indians. I am pleased to welcome the Committee to southern California and to present our Tribe's views.

Our reservation is located in and near Palm Springs, California and originally included over 31,000 acres of trust land when first established in 1879. Over the years our desert reservation has begun to develop and prosper, largely as the result of long-term leasing, which Congress permitted for the first time anywhere on our reservation beginning just 30 years ago. Since nearly all of our reservation is allotted, the prosperity of our people and our ability to support ourselves depends on the leasing process. As of 1986, only one quarter of our allotted trust land had been leased. The other three quarters remains unleased, even though much of it is prime development property in the Palm Springs area. The last time the BIA approved a lease of our allotted land was in 1984.

Self-sufficiency through leasing is what Congress had in mind in 1959 when it allotted our reservation and authorized us alone to engage in leasing of up to 99 years. We have achieved some success through leasing, but there are still some problems. My remarks today are geared to steps that the federal government could take to increase our self-sufficiency by improving the leasing process.

First, we hear reports that Manuel Lujan, the new Secretary of the Interior, our trustee, is considering a one-year moratorium on taking any land into trust for tribes or individuals by the BIA throughout the Indian country. We do not know if these reports are true but, if they are, they will severely hamper our members' ability to develop their lands. Our reservation is a checkerboard composed primarily of all the even-numbered sections of land in three townships. All or portions of our allotments are frequently condemned by local authorities for public purposes. We frequently sell parcels not well-suited for development, and we exchange parcels to consolidate for development. Such condemnation and sales produce funds which, until now, were routinely used to purchase other lands on the reservation, which were routinely taken into trust by the BIA in the ordinary course of business, nearly always within the exterior boundaries of the Agua Caliente Indian Reservation. Any moratorium would unnecessarily limit our ability to convert the proceeds of trust land into other trust lands for leasing purposes.

960 EAST TAHQUITZ WAY • SUITE 106 • PALM SPRINGS, CALIFORNIA 92262 • (619) 325-5673

Tribal Statement/Senate Select
Committee Hearing
April 27, 1989
Page 2

Also, the Tribe has almost no trust land itself suitable for development. The Tribe is considering the purchase of land with Tribal funds within the reservation for economic development projects to benefit the entire Tribe. But we cannot proceed if we cannot have such land taken into trust.

Therefore, we urge the Committee to question the BIA regarding any moratorium which would prevent the Tribe and our allottee-members from engaging in routine trust takings within the reservation. Such actions are part of the ordinary course of business on this reservation, and are necessary for the kind of large-scale development that Congress has encouraged.

Second, the existing BIA leasing process is so cumbersome and time-consuming that many potential lessees purposely avoid our lands to avoid the process. The situation has become especially acute recently. While the BIA approved over 200 leases on our reservation from 1959 to 1984, none has been approved since 1984. This is partly because of local economic conditions, but also partly due to the obstacles and delays inherent in the present leasing process. Before they left office, Secretary Hodel and Assistant Secretary Swimmer both visited our reservation and viewed developed and undeveloped allotments. They both understood how the present leasing regulations and procedures are largely obsolete and geared for farming and ranching, not for an urban environment and a fastpaced real estate market. To remedy this situation, they formed a task force of BIA personnel with various backgrounds, plus Tribal representatives, and we are now working together to propose measures which would simplify and streamline the leasing process and procedures. We must remain competitive in the local real estate market, despite the regulations and other built-in delaying factors. Therefore, we urge the Committee to consider favorably whatever changes the task force may recommend to it to achieve this goal.

Third, for historic reasons, the Agua Caliente Band, like most southern California tribes, voted to reject the Indian Reorganization Act back in the 1930's. One of the IRA's main features is found at section 2: the indefinite extension of the trust period for all allotted and unallotted trust lands of all IRA tribes. Our Tribe, like all non-IRA tribes, cannot rely on the stability and ability to engage in long-range planning that this statutory guarantee of continuing trust status provides. Instead, we must rely on the 5-year extensions that the Secretary routinely issues administratively as each 5-year extension is about to expire. Such administrative practice is certainly welcome, but it is not substitute for the reliability and strength of a statute. Potential lenders and developers, as well as allottees and the Tribe itself, are all aware of the possibility that the trust status of our lands could expire at 5-year intervals. This deters long-term development, because many development plans count on uninterrupted trust status.

Tribal Statement/Senate Select
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Therefore, for the benefit of the long-range development of the Agua Caliente Indian Reservation, as Congress had in mind in directing allotment of the reservation and the first long-term leasing in 1959, we request the Committee to consider extending the protection of section 2 of the IRA to all tribes. Congress has already done so with respect to section 5 of the IRA, which allows the Secretary to acquire lands in trust for tribes or individuals by gift, purchase, or exchange if the Tribe accepted the IRA. By section 203 of the Indian Land Consolidation Act of January 12, 1983, Congress made section 5 of the IRA applicable to all tribes, whether they were subject to the IRA or not. Similarly, we urge the Committee to consider allowing section 2 of the IRA to apply to all tribes. Such a change would remove much of the uncertainty from the development of our reservation and the many others in southern California not subject to the IRA.

In closing, I would like to invite the Committee to visit the Agua Caliente Indian Reservation, to see the palm oasis and the Indian Canyons which are the subject of Senator Cranston's S.11, and to see an urban Indian reservation whose members are trying to retain their essential heritage while developing their only resource, their allotted lands. Congress assisted us greatly in 1959 by directing the allotment of our reservation and by permitting us to have the first long-term leasing in the nation. But the goals of 1959 are not yet reached. Your attention to the three subjects which I have just described will help us to attain self-sufficiency. We have the will and the means, but only Congress and the Administration can remove the stumbling blocks. On behalf of the Agua Caliente Band, I thank you for your time and consideration, and hope that at least some members of the Commission can accept our invitation to visit our reservation.

AGUA CALIENTE
BAND OF
CAHUILLA INDIANS

Statement of Barbara Gonzales-Lyons
April 27, 1989

My name is Barbara Gonzales-Lyons and I am a member and past Chairman of the Agua Caliente Band of Cahuilla Indians. I am opposed to any proposed moratorium as I currently have Indian Trust Land Sales pending.

Pauma Indian Reservation

ESTABLISHED 1893

P. O. BOX 86

• PAUMA VALLEY, CALIFORNIA 92061

• (619) 742-1289

PAUMA-YUIMA INDIAN RESERVATION

SAN DIEGO COUNTY, CALIFORNIA

ESCONDIDO HEARINGS, APRIL 27, 1989

Presented by Patricia A. Dixon, Tribal Administrator

Good afternoon, Distinguished Members of the Committee. I am Patricia A. Dixon, member of the Pauma Band of Mission Indians, former tribal chairwoman, and presently the tribal administrator. My tribal council has directed me to speak in reference to a parcel of land we possess referred to as the Mission Reserve.

The Mission Reserve is located in the Agua Tibia Mountains of the Palomar Mountain Range. We own approximately 5,600 acres. Although recently restored to us in 1973 the Mission Reserve has been a traditional site utilized for food gathering, timber harvesting and cattle grazing. In addition, it has an incalculable value as a water shed.

Historically the Mission Reserve was used by many of the surrounding tribes and extensively by the Pauma, Pala and Warner Springs people. In 1973 patents were issued by the U.S. government to Pauma and Pala (Warner Springs had been moved to Pala in 1903), Pauma agreed to give the western portion of the Mission Reserve to Pala, thus consolidating parcels of land to allow Pala avoidance of a checkerboard effect. This western portion was contiguous to Pala's

eastern boundary. We, Pauma, received, then, the western portion which was heavily timbered and larger since our land base in the valley was only 250 acres

Prior to the issuance of the patents Pauma and Pala did not pursue a right-of-way with the U.S. Forest Service due to the initially large demands by the Forest Service for public right-of-ways for recreational purposes and limitation of our use of the only access road at that time. Apparently the tribal leaders also felt excessive public exposure over the right-of-way and patent issuance could seriously hinder their reception of the Mission Reserve.

Once the patents were issued Pauma attempted to reach an accord with the Forest Service but to no avail. Most recent attempts in 1988 have offered a rare glimmer of hope for permissions but alas money would be a serious obstacle.

Now, to the point, which are actually several:

1. Pauma has no right-of-way to the Mission Reserve
2. The 1987 forest fire created severe loss of timber
3. Inability to protect the Reserve from game poachers, trespass, and timber theft.

Point one: The right-of-way problem is twofold - due to lack of expertise, lack of guidance, and a fear we would lose the Mission Reserve in protracted negotiations with the Mission Reserve we did ^{not} secure a right-of-way. In addition, we presumed that since we had allowed Pala to consolidate separate parcels of land, some of which were held by us, that Pala would ^{not} deny us a right-of-way through their newly

acquired property.

The lack of a right-of-way in 1978 created an acute problem when Pauma decided to harvest timber in the Reserve. Private property owners denied access along the Palomar Divide Road and the U.S. Forest Service, itself, by this time had only limited use of portions of the road. The timber company, with our permission, approached Pala to discuss the punching in of a road on our western side and their eastern side of the Mission Reserve. They agreed with certain stipulations. The timber company and Pauma bore the cost of the road. Pala now had access to their portion of the Mission Reserve. Once the logging was completed Pala revoked our use for purposes of negotiation for future use. Repeated attempts to negotiate since then have failed.

We, Pauma, have slash piles, harvested trees not removed from the cutting site, firewood, and fence posting that cannot be utilized due to a lack of a right-of-way. It is our belief that the Bureau of Indian Affairs in the filing of the patents should not have presumed, as they told us, that Pala would ^{not} deny us a right-of-way. Having been neighbors for a thousand plus years or so we had not anticipated a problem either; however, the BIA, with its expertise should have protected us. As strange as it may sound, the Pauma men and women of that time were simple people and lacked the sophistication that may have prevented this problem.

Periodic correspondence with the BIA has prompted tentative responses of Federal commitment to solve the access

problem or to at least try and provide a temporary access to take care of our burnt areas but nothing has actualized.

Point two - the 1987 forest fire destroyed approximately 70% of virgin growth in reforested areas of the 1978 timber harvest and approximately 30% of long standing timber. THE MISSION RESERVE IS OUR ONLY MAJOR POTENTIAL RESOURCE OF ECONOMIC VIABILITY, since the majority of our valley acreage is for domestic dwellings and some agricultural use. Our needs and concerns are the following:

- a. insufficient funding to reseed the burnt area
- b. denial to contract and reseed as a tribal government
- c. again, the lack of a permanent right-of-way

With 93-638 money Pauma contracted the Hoopa forestry department to do an independent study of the burned areas, to recommend the type of seedlings to plant, and to estimate the acreage burned. Their estimation exceeded that of the BIA. We, also, wonder why the BIA has done nothing to recoup some of the loss of our timber capital through legal means.

Point three - periodically when we obtain permission to cross private property to enter the Mission Reserve we see evidence of new and continuing destruction of trees and diminishment of accessible firewood. Tire tracks are in abundant evidence. The Mission Reserve prior to the fire was an incalculable watershed, home to many wild animals, a source of food such as acorns and a great commercial resource. Unless, it can be reforested and adequately protected its value will lessen.

In summary, we cannot preserve our watershed, protect our trees or do sufficient reforestation without some form of a permanent right-of-way.

We respectfully request that your body investigate and find a means by which we may have access to our land.
Thank-you

PREPARED STATEMENT OF LUKE MADRIGAL, CHAIRMAN,
SHERMAN INTER - TRIBAL COUNCIL

American Indian tribes of these United States rely on the Sherman Indian Boarding School in Riverside, California for the education of their children. Indian Families send their children to Sherman Indian High School as a home away from home for such education and do so with expectations that the authorities of said school will care for their children's safety as if they were at home. Administration has not lived up to the aforementioned entrusted responsibilities.

Problems with drugs, drunkenness, rape and other crimes have existed unchecked among Indian children attending the school, thereby causing the death of some Indian children and the infliction of bodily harm upon others.

These serious problems have been passed over haphazardly by the administration without the administrator in charge coming forward with a solution to the existing problems.

The Sherman Inter-Tribal Council (SITC) consists of individuals, tribes, and organizations advocating against mismanagement at the Sherman Indian Boarding School. SITC has brought pertinent information in regard to the abuses currently experienced by Sherman students to Mr. Joe Frazier, Principal, Sherman High School, and Mr. Pete Soto, Phoenix Area Programs Administrator. We view administrations disdain and surprise of the content of our presentation as a basis for a vote of no-confidence.

We truthfully find ourselves hard pressed to believe that administration is not coherently aware of the reports of suicide, attempted suicide, rape, high rates of alcohol and substance abuse, staff child abuse allegations, staff alcohol and substance abuse allegations contributing to the delinquency of minors, homeliving and academic program inadequacies, and expulsion due process violations.

Furthermore, administration continues to give no indication of making any serious efforts to resolve these problems. In fact the SITC has attempted to work with administration as a problem solving resource, but has been met by total resistance by Joe Frazier.

In 1980 a Sherman Ad-Hoc Committee compiled a well documented critical analysis of Sherman Indian High School with the overriding purpose of formally requesting a transfer of Sherman Indian High School from the jurisdiction of the Phoenix Area Office to the Sacramento Area Office via the Riverside Agency. A main objective of this transfer was to facilitate tribal contraction with the Bureau of Indian Affairs for the improved operation of Sherman. This right can be exercised via P.L. 93-638

Indian Self- Determination and Education Assistance Act of 1974) and P.L. 93-561 (Indian Education Policies of May 22, 1979).

The report indicated that much of the difficulty in making Sherman responsive to Indian student's social and academic needs arises out of the ineffectiveness of both Phoenix Area Office and the Sherman School Board to monitor the school. Distance was cited as a major contributing factor in this ineffectiveness.

Sherman Indian High School is physically within California Tribal jurisdiction. It has been California Tribal objectives for a number of years to contract the operation of Sherman. The process is made more difficult by the fact California Tribes are under a California Area Office and the School is under an Arizona Area Office.

The Sherman Ad-Hoc Report further went on to document the low grade level test scores for Indian students and low college enrollment with high drop-out rates. SITC more recent inquiries into the academic picture at Sherman find the identical shortcomings. Sherman is currently operating on unaccredited status.

The SITC more recent findings provide substantial evidence that Sherman is not meeting the educational and social needs of the Indian students from California and other states. This committee chairman is prepared to provide information as to the alleged wrongs being carried out at Sherman. In addition this committee is prepared to provide the names of former and current staff and students in confidence so that they may provide testimony to the alleged wrongs being perpetrated.

Therefore, be it resolved that individuals, tribes, parents, organizations, and members of the SITC demand that a Congressional Investigation by the Senate Select Committee on Indian Affairs be immediately commenced into the negligent actions and policies of the administrator or principal.

When said investigation confirms the policies of mismanagement we urge our elected representatives, and the Congress of the United States to live up to it's entrusted responsibility of providing a safe and adequate educational environment to Indian children, and commence and expediate the removal of the administrator or principal, Joe Frazier from the Sherman Indian Boarding School for failure to safeguard and protect the welfare and well-being of the Indian children there attending.

The SITC further stipulates that the Senate Select Committee on Indian Affairs actively advocate that the Bureau of Indian Affairs provide the necessary assistance to the California

tribes for contraction of Sherman Indian High School under P.L. 93-638. This assistance would be in the form of funds for the California tribes to create the proposal, and policy advocacy as needed to facilitate contraction.

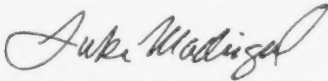
SITC's intent is to form a tribally contracting entity with California Tribal representation from North, Central, and Southern California tribes. This tribal entity would meet the definition for contraction under P.L. 93-638.

The Indian tribes of California ask only that their constitutional rights as American citizens be fulfilled- their childrens right to a safe and adequate education. Due to the Bureau of Indian Affairs failure to provide this education and safety at Sherman the tribes have no feasible alternative but to exercise their rights to Indian Self Determination under P.L. 93-638.

It is our hope that this committee will follow through with our recommendations of a thorough investigation and the removal of bureaucratic obstacles which stand in the way of our goal.

We look forward to your immediate response to our position and follow-up contact with the Sherman Inter-Tribal Council for further information concerning the directives of this very serious matter.

Respectfully submitted,



Luke Madrigal,
Chairman,
Sherman Inter-Tribal Council

TESTIMONY FOR THE RINCON
INDIAN EDUCATION CENTER
BY MOLLY ROUNDS, DIRECTOR

The Rincon Indian Education Center was founded in 1974. The Education Center is located on the Rincon Indian Reservation.

The number of participants the Center serves is 350 students from five (5) reservations in grades K-12 in seven different school districts. The sole funding source is the State of California, which is \$99,000 dollars annually.

OBJECTIVE OF THE INDIAN EDUCATION CENTER

The objective of the Education Center is through tutoring, counseling, and other educational programs to assist and motivate students to complete their High School requirements.

The Center, since its inception has not been able to meet its objective of reducing the school dropout rate of 60 percent. However, the length of time students are staying in school has increased from the 8th grade to the tenth grade.

Barriers that prohibit students from graduating High School are as follows:

1. TRANSPORTATION. Students who travel to High School must often commute more than 30 miles one way. A sixty-mile commute on a school bus equates to a two-hour ride each way and is tedious. In addition to this long commute, the bus will only stop at designated places, which requires some students to walk up to three miles to the bus stop. The bus departs the reservation before sun up and returns at sun down, leaving no time for study or recreational activities.

A potential solution to this problem is that a school bus be assigned to each reservation for school transportation.

2. LIMITED FUNDING. The Center only receives \$99,000 annually from the State of California; no Federal funds are available to assist the Center. Title IV Indian Education funds are not available, due to the Department of Education not receiving any new applicants for this program.

Solution: Allow the Center to become an applicant for Title IV funding.

In addition to not being eligible for Title IV program funds, the Valley Center School District receives \$400,000 in Impact Aide monies from two of the local reservations. The aid is supposed to

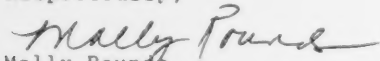
assist the district in differing the lost tax dollars and establish special programs for the reservation students. To date, the school district has established a program for migrants but not for Indians. The funds received by the District are substantial.

3. STAFFING. The Center currently employs seven tutorial aides to tutor 35 students, a ratio of 50 students to each tutor. Using teaching standards, this ratio is two times the optimum rate to be effective. Receiving only State funds severely limits our effectiveness and forces us to use this high ratio.

In order for us to increase our effectiveness, we need to reduce the 50 to 1 ratio, by increasing staff size. To properly administer this program, the staff size would need to double. This requires additional funds, and those funds are unavailable from the State. However, we would like to be eligible to apply for Federal Title IV Funds and other programs.

Assistance in this area is desperately needed and the Valley Center School District will not assist with a special needs program, similar to the program established for migrant workers. Education of our Indian students is a priority for our reservations and our future. Please assist us in educating the students of our reservations by expanding the opportunities available to us so that we may apply for Federal funds and with it, our local school districts.

Respectfully,


Molly Rounds
Director
Rincon Indian Education Center

TESTIMONY BEFORE THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

Thank you Mr. Chairman and members of the Committee for this opportunity to testify about matters of concern to the Colorado River Indian Tribes. My name is Curtiss Martin, Sr., and I am a Tribal Council member as well as Director of the Colorado River Indian Tribal Museum. With me today is Mary Lou Brown and Lavina Nopah, tribal elders, and Weldon Johnson, the Tribal Archaeologist. The Colorado River Indian Reservation is located in both California and Arizona, spanning the Colorado River for approximately forty-five miles beginning eight miles north of Parker, Arizona, south to Blythe, California. The Reservation consists of approximately 268,691 acres, 225,995 in Arizona and 43,696 in California. The reservation lies within the traditional lands of the Mohave and Chemehuevi Indians, who along with Hopi and Navajo Indians are members of the Colorado River Indian Tribes.

My testimony today will focus on cultural resource protection and religious freedom. We have chosen to address these matters for several reasons; most notably, the threat to our cultural identity and religious freedom from the increasing pressures being placed on the Southern California desert regions. Religious freedom and cultural resource protection have been the subject of much discussion since the Supreme Court's decision in Lyng v. Northwest Cemetery Association last year. Our own experience these past several years has indicated that while the American Indian Religious Freedom Act of 1978, the subject of the Lyng decision, was a valuable expression of support for the religious freedom of Native Americans, it failed to afford real protection to Native American religious beliefs which, in contrast to the religious beliefs of Western Society, are inextricably linked to the land. Efforts towards amending AIRFA to ensure that federal lands are managed in a manner which protects the religious practices of Native Americans is an important step towards protecting Native American religious freedom and the Tribe supports H.B. 1546, legislation introduced by Representative Udall, to that effect. However, legislation is needed to address the broad spectrum of cultural resource protection issues necessary to truly afford protection to Native American culture and religion.

For many years now the Colorado River Indian Tribes has asserted its interest in the traditional lands of the Mohave and Chemehuevi people. Several resolutions reflecting our position that these lands and the cultural resources found there be protected and preserved have been adopted and I request that they be made part of the record of this hearing. We have actively attempted to protect the sacred sites and the cultural resources of our traditional lands. We work closely with federal and state agencies, which control much of our traditional lands, to educate them about the importance these sites and resources have to our cultural identity and religious practices. We have established good working relationships with these federal and state agencies, but are unable to effectively protect our traditional lands because of the sheer number of often inconsistent laws and regulations which pertain to federal lands. The National Environmental Protection Act; the Archaeologic Resources Protection Act; the Act for the Preservation of American Antiquities and the National Historic Preservation Act are available and afford some measure of protection. However, in our experience the fact that they do not specifically address the issue of protection of Native American cultural resources undermines their value. Native American religious practices cannot be separated out from cultural resources or from the land where these resources exist. Comprehensive legislation which includes amendments to the above-mentioned acts and addresses Native American concerns is necessary to protect Native American culture and religion.

One example of why omnibus legislation concerning cultural resource protection and religious freedom is necessary is the proposed Low Level Radioactive Waste Site being planned for Ward Valley, located in the traditional lands of the Mohave and Chemehuevi people in the Mohave Desert, 23 miles west of Needles, California and one mile south of Interstate 40. U. S. Ecology, a California corporation, is the "license designee" for the State of California which is obligated under federal law to develop a low level radioactive waste disposal facility. Ward Valley is on land presently controlled by the United States Bureau of Land Management and designated under the California Desert Conservation Plan as a Moderate Use Area. A Moderate Use Area as defined by BLM may not be used for the disposal of hazardous waste except in limited circumstances. The Fort Mojave, Chemehuevi, Colorado River and other Indian tribes have been involved in the process which resulted in

the selection of Ward Valley as a preferred site for hazardous waste disposal. Fort Mojave, the tribe most directly affected because of its close proximity to the site, adopted a resolution opposing the planned use which is attached for your information. I request that this resolution be made part of the record.

We were just informed by BLM this week that the State of California has filed a Notice of Selection of Indemity Lands under 43 U.S.C. §851 - §873. Apparently, if a transfer occurs pursuant to that law, California will be free to use the site for any purpose, notwithstanding the California Desert Conservation Area Plan or AIRFA which will no longer apply. The Bureau of Land Management has a trust responsibility to Indian tribes, and the contemplated transfer of land for a use which will threaten our cultural existence is inconsistent with this responsibility. Had we been aware of California's intention to obtain the Ward Valley site under 43 U.S.C. §851 - §873, and thereby circumvent AIRFA and the California Desert Conservation Area Plan, we would have prevailed upon BLM to, in accordance with its trust responsibility, remove the site from those lands available for transfer. If the AIRFA amendments were law today, perhaps we would have a remedy, and while we will continue to oppose the site by every legal and other means available to us, our already limited resources make an effective challenge very difficult and it is likely that the radioactive waste site will be located at Ward Valley. As Ward Valley indicates, the various laws pertaining to federal lands contain loopholes which permit federal, state and local governments to ignore the concerns of Native Americans.

Since our first contact with U.S. Ecology in 1986 we, and many other tribes, have opposed locating California's hazardous waste site in Ward Valley for cultural and religious reasons. The site has been selected however, and U.S. Ecology, which is moving forward to obtain a license from the State of California, proposes a "creative mitigation program that will preserve ethnographic information for future use by Native Americans." Although we are interested in preserving information for the future our real concern is to preserve our culture and religion for our future generations. We intend to take part in this process to salvage whatever resources we can, but we do so

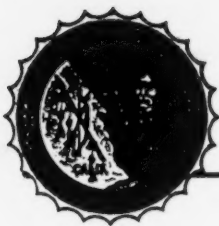
reluctantly, and appeal to this Committee to take action to prevent future instances like Ward Valley.

Another example of the problems associated with piecemeal legislation in the area of Native American cultural resource protection and religious freedom is the Campbell Collection, an extensive collection of Native American cultural resources presently controlled by the United States Park Service, which plans to relocate the collection to the Western Conservation Center in Tucson, Arizona in the near future. This collection is of value to all Native American people whose ancestors lived in the area in which it was collected. The collection dates from prehistoric times and consists of some 80,000 pieces of pottery (including large painted ollas), late 19th century and early 20th century baskets, groundstone and flaked stone artifacts and other rarely-found artifacts. In addition, more recent items from the Mohave, Chemehuevi, Cahuilla, Serrano and other Indian tribes are included in the collection. Under 16 U.S.C. § 462(f) the Secretary of Interior has the authority to establish and maintain museums in connection with sites, objects and properties of archaeological or historic significance.

Certainly, the Campbell Collection has historic significance to all citizens of the United States; and its importance to the Native Americans of Southern California is self-evident. Establishing a federal repository in Southern California for archaeological material recovered in Southern California which could house the Campbell collection and other cultural resources would give the local tribes with whom such materials are directly linked the opportunity to redocument the items to explain their use, meaning, and significant and would be a significance gesture towards expressing the respect with which the United States views the Indian tribes of Southern California.

Legislation which addresses the protection of Native American religion and culture in a comprehensive manner, expressing Congress' intent that real protection be afforded and ties up the loopholes which exist in the multiplicity of federal laws which effect traditional lands is desperately needed. In addition, such legislation should mandate that the federal agencies charged with regulating federal lands promulgate uniform regulations.

The five tribes of the lower Colorado River including Fort Mojave, Chemehuevi, Cocopah, Colorado River and Quechan have formed a coalition named the River Tribe Coalition to work together on matters of mutual concern. Last week the group adopted a resolution supporting omnibus legislation for religious freedom and cultural resource protection, which in addition to related materials, I ask be made part of the record of today's hearing. Also, we wish to extend to the Committee our availability to work with your staff on developing legislation of this type.



THE FORT MOJAVE INDIAN TRIBE

NORA GARCIA - *Chairperson*

ELDA BUTLER - *Vice Chairman*

KENDALL GUERRERO - *Secretary*

JEANNETTE OTERO - *Member*

PATRICIA MADUENO - *Member*

MELBA GUERRERO - *Member*

GARY ARRISON - *Member*

500 MERRIMAN • NEEDLES, CALIF 92363 • (819) 326-4591

Resolution No. R-8

- WHEREAS: The Fort Mojave Indian Tribe of California, Arizona, and Nevada is organized pursuant to the Indian Reorganization Act of 1934; and
- WHEREAS: The Fort Mojave Tribal Council is the legal governing body organized according to the Constitution and Bylaws of the Fort Mojave Indian Tribe; and
- WHEREAS: U. S. Ecology, in its search for a Low-Level Radioactive Waste Disposal Site for the State of California, does include Ward Valley, located 25 miles west of Needles, as a proposed site; and
- WHEREAS: From time immemorial, Ward Valley has been within the traditional and ancestral lands of the Mojave; and
- WHEREAS: Descendants today, as did their ancestors, still hold fast to the respect and reverence for this valley; and
- WHEREAS: The inherent stewardship is embodied in the spiritual responsibilities and obligations of the Tribe for their children and the children of future generations; and
- WHEREAS: This area under the California Desert Plan, in which the Mojave Tribe participated, does not make specific allowances for this use; and
- WHEREAS: The Bureau of Land Management under the Department of the Interior administers the proposed Ward Valley site; and
- WHEREAS: The Bureau of Land Management has trust responsibility to the Fort Mojave Tribe, which is not a mobile population; and
- WHEREAS: There is applicable legislation regarding cultural area preservation for Native Americans:
- P.L. 95-341 American Indian Religious Freedom Act.
 - P.L. 91-190 National Environmental Policy Act.
 - P.L. 209 An Act for the Preservation of American Antiquities.
 - AB - 4239 California legislation establishing the Native American Heritage Commission.
 - A R P C Archaeologic Resources Protection Act
 - C E Q A California Environmental Quality Act
 - Public Resources Code: Division 5, Chapter 1.75, as revised.
 - Legislation to protect the Native American interest on Public lands.

WHEREAS: The Fort Mojave Tribe retains deep concerns regarding but not limited to the leakage and spills of the radioactive material, transportation of such matters via a highly traversed route through residences and businesses, effects of torrential rains, existing washes, severe dust storms, possible earthquakes, and groundwater contamination; and

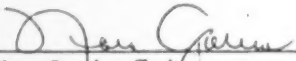
WHEREAS: The Elders of the Fort Mojave Tribe have clearly stated their opposition to the Low-Level Radioactive Waste Disposal Site in Ward Valley;

NOW, THEREFORE, BE IT RESOLVED: That the Fort Mojave Tribal Council fully endorses the views of the tribal Elders and opposes the selection of Ward Valley for a Low-Level Radioactive Waste Disposal Site.

CERTIFICATION

We, the undersigned, as Chairperson and Secretary of the Fort Mojave Tribal Council, do hereby certify that the Fort Mojave Tribal Council is composed of seven (7) members, a quorum being composed of four (4) members; and that the foregoing Resolution No. R-87-63 was adopted by an affirmative vote of 7 at a Regular Meeting convened this 14 day of November, 1987.

FORT MOJAVE TRIBAL COUNCIL



Nora Garcia, Chairperson



Gary Arriagon, Secretary

Attachment: Statement--Fort Mojave Tribal Elders.

STATEMENT

October 30, 1987

FORT MOJAVE TRIBAL ELDERS
500 MERRIMAN AVENUE
NEEDLES, CALIFORNIA 92363

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITE

Mojaves from eons past have been known as the principal inhabitants of the southern California desert region. The traditional and ancestral territories of the Mojave people extend beyond the boundaries of the Reservation so set by the Federal Government. Ward Valley is one such contiguous area.

Here our ancestors lived; here run the trails of the Mojave and the Chemehuevi. There was extensive travel throughout a vast area of southern California. Trade routes were well established to the Pacific Coast, Nevada, and Mexico. Lands of the Mojave also extended east to the Hualapai Mountains near Kingman, Arizona. Petroglyphs, caves, artifacts, campsites, antaglios -- all attest to this. Songs relate these travels and depict these landmarks -- the Chemehuevi through their Salt songs; the Mojave through their Deer, Tumanph, and Bird songs.

Though the densest population of Mojaves in times past was along the Colorado River, there were also permanent settlements, as well as temporary and seasonal homes, in the inner desert regions. This included the Ward Valley. The population of the Mojave was more than 7,000 members in the recent history of this country, and these people inhabited territories great distances from the Colorado River, as documented through archaeological findings and recordings.

The Mojave peoples, as all Native Americans, from the beginning of our existence hold with the highest respect and reverence the land, the sky, and all living things upon the earth. Today, the Mojave people continue the use of various powders and paints, derived from the earth and concocted from natural resources of plants, rocks, and clays found in sites throughout the desert. These are for cosmetic use in traditional ceremonials, funeral rites, and other special occasions.

Now comes a proposed Low-Level Radioactive Waste Disposal Site in Ward Valley. Our concerns and fears are many:

Ward Valley today still contains the many varied wildlife and plantlife which sustained our ancestors. As reported by Cultural Systems Research, Inc., the valley presently abounds with over 20 such plants important to the Native American as food, and medicinal and craft resources.

What impact would this facility have on the plantlife? The barrel cactus, the beavertail, teddybear cholla, and pencil cholla. The mesquite, screwbean, and Joshua tree. Also the yucca and greasewood plant. The Indian tea and wild wheat.

STATEMENT

October 30, 1987

What impact would this facility have on the wildlife? The desert fox, coyote, rabbit, mountain sheep, quail, kangaroo rat, burro, tortoise? This is a prime habitat of the tortoise. What of the rattlesnake, sidewinder, kingsnake, and the various types of lizards and insects to be found there? What possible dangers are there to the eagle, red-tail hawk, ringtail hawk, mockingbird, desert wren, and other feathered species which inhabit this area?

Noting the variety and richness of resources in the area, it is not difficult to understand how this place was home to the Mojave people. The Mojave has songs, stories, and religious beliefs about these sites, plants, and animals. Of spiritual significance are the hawk, eagle, and turtle.

Radioactivity. How much is really known about this foreign substance called radioactive matter? We are told the higher radioactive material would become inactive in 500 years! Is there a precedence?

What are the possibilities of an earthquake? As far as we are aware, mankind, at this point in time has not yet mastered control over the elements -- to the extent of preventing such catastrophic events deemed "an act of God". In relation to the earthquakes and seepage, and of most concern --What are the dangers to our groundwater?

Ward Valley remains a very important area to the Mojave people, and concern is for the protection of the desert creatures and vegetation, and for the preservation of this particular ancestral heritage in its natural and pristine state, without any possible future jeopardy.

Where once the Native American was the sole inhabitant and possessor of these entire lands now known as the United States of America, he may today call only less than one percent (1%) his homeland. Where once the Mojave could securely exist in his ancestral lands for evermore, as Mah ti vil had so proclaimed at the time of creation, now in this time and age, in order to protect and retain the small plot of ground called a Reservation which the American Government has allowed him, he must, to survive as a people, forever be defensively aware of the continued and relentless attempts of encroachment and the further taking of his lands, little by little, stone by stone.

Stewardship remains an inherent obligation of the Tribe, to ensure our children and generations to come the continuity of knowledge regarding the religious beliefs and way of life unique to the Mojave people, and the preservation of these ancestral lands of the Mojave

The Fort Mojave Elders, by this statement, hereby oppose any establishment of a Low-Level Radioactive Waste Disposal facility in Ward Valley.

THE FORT MOJAVE INDIAN TRIBE



Nora Garcia - Chairperson
 Llewellyn Barrackman - Vice-Chairperson
 Gary Arrison - Secretary
 James D. Bryan - Member
 Patricia Madueno - Member
 Melba Guerrero - Member
 Archie Knox - Member

500 MERRIMAN • NEEDLES, CALIF 92363 • (619) 326-4591

November 16, 1987

FEDERAL EXPRESS

Mr. Steve Romano
 U. S. Ecology
 1600 Dove Street, Suite 408
 Newport Beach, CA 92660

Dear Mr. Romano:

Enclosed please find Tribal Resolution No. R-87-63 concerning the Fort Mojave Tribe's opposition to the designation of a Low-Level Radioactive Waste Disposal Site in Ward Valley.

Also included with this enclosure is a statement from the Tribal elders which identifies in detail reasons for concern.

Should you have any questions or comments, please advise. We would appreciate your relaying the enclosed to the decision makers in this site selection as the formal position of the Fort Mojave Tribe.

Very truly yours,

FORT MOJAVE TRIBAL COUNCIL

Nora Garcia
 Nora Garcia, Chairperson

NG:leh

Enclosures

cc: E. Butler, FMT Cultural Committee
 Henson, Superintendent, BIA-CRA



Nora Garcia - Chairperson
Llewellyn Barrackman - Vice-Chairperson
Gary Arrison - Secretary
James D. Bryan - Member
Patricia Madueno - Member
Melba Guerrero - Member
Archie Knox - Member

500 MERRIMAN • NEEDLES, CALIF 92363 • (619) 328-4591

November 16, 1987

C. L. Henson, Superintendent
BIA - Colorado River Agency
Route 1, Box 9-C
Parker, AZ 85344

Dear Superintendent Henson:

Enclosed for your information is Resolution No. R-87-63 concerning the Fort Mojave Tribe's opposition to the designation of a Low-Level Radioactive Waste Disposal Site to be located in Ward Valley.

Also included in this enclosure is a statement from the Tribal elders which identifies in detail reasons for opposition.

Should you have any questions or comments, please let me know.

Very truly yours,

FORT MOJAVE INDIAN TRIBE


Nora Garcia, Chairperson

NG:leh

Enclosures

RESOLUTION
COLORADO RIVER TRIBAL COUNCIL

A Resolution to Recommend to the Bureau of Land Management to approve the
PROTECTION ALTERNATIVE of the California Desert Conservation
Plan. Special
 Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in ~~regular~~ Special meeting
 assembled on May 12, 1980

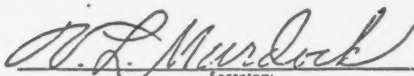
- WHEREAS, the Colorado River Indian Tribes are a Federally recognized Tribe duly organized with a Tribal governing body according to the provisions contained in the Indian Reorganization Act of June 18, 1934, and
- WHEREAS, the Bureau of Land Management (BLM) presented four (4) alternative plans in the draft of the California Desert Conservation Plan Alternatives and Environmental Impact Statement, dated February 18, 1980, which has been developed through field research and public hearings, and
- WHEREAS, the Tribal Council of the Colorado River Indian Tribes made a careful review of each alternative, and
- WHEREAS, the Tribal Council has determined that the PROTECTION ALTERNATIVE PLAN is most consistent with the Tribes' interest, and
- WHEREAS, the Tribal Council has determined the need for revision and addition to the California Desert Conservation Plan incorporating the following:
1. The BLM has trust responsibility as a Federal Agency for protection of Indian interests as they may be affected on BLM administered lands.

The foregoing resolution was on May 12, 1980 duly approved by a vote of
8 for and 0 against, by the Tribal Council of the Colorado River Indian
 Tribes, pursuant to authority vested in it by Section 1(r) Article VI of the
 Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the
 Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat.
 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By


 Chairman


 Secretary

RESOLUTION NO. R-28-80
MAY 12, 1980
PAGE 2

2. The BLM must recognize the government of all Indian Tribes as sovereign and thus consult them on all issues affecting Indian interest with concomitant responsibility to reply in a timely fashion to all correspondence with the Tribes.
3. Mining and Railroad Laws are antiquated and must be amended to provide consistency in the plan and to recognize the policy contained in recent legislations calling for the protection of Indian cultural resources and other significant resources.
4. It should be recognized that Native American concerns and cultural concerns are not the same and should be treated as separate elements in the plan, referencing the Memorandum of Understanding Pertaining to Bureau of Land Management, California Policy for Native American Concerns and Cultural Resources Management among the Native American Heritage Commission and The State Historic Preservation Officer and The Bureau of Land Management, California (attached hereto as Exhibit "A").
5. Extreme care should be taken in the administering of any area involving Indian concerns, and provision should be made for designation of additional areas as Areas of Critical Environmental Concerns (ACEC) if protection is not deemed otherwise adequate by the Tribes.
6. The various District Offices of the BLM should fully cooperate with each other in administering areas of concerns of Native Americans where such areas overlap administrative boundaries including State boundaries.
7. The presence of the burro on the desert is not consistent with the protection of Native American interest, as the burro has been recently introduced to the desert and is destructive to archaeological sites and the habitats of native flora and fauna, and therefore should be removed from the desert.
8. BLM Rangers should be given enforcement authority, consistent with the protection responsibilities set forth in the plan.
9. In adoption of the plan, Congress should appropriate funds to be used for implementation and management of the plan and for coordination among agencies and governments.
10. Cooperative Management Agreements between BLM and Indian Tribes should be encouraged in the implementation of the plan.
11. It is imperative that all jurisdictions be required to coordinate with Federal authority in order to achieve effective implementation of the plan.

RESOLUTION NO. R-28-80
 MAY 12, 1980
 PAGE 3

NOW, THEREFORE, BE IT RESOLVED that the Colorado River Indian Tribes through its governing body, the Tribal Council; recommend that the Bureau of Land Management adopt the PROTECTION ALTERNATIVE of the California Desert Conservation Plan for Congressional approval.

BE IT FURTHER RESOLVED that the Tribal Council recommend that the Bureau of Land Management incorporate the revisions and additions stated in this resolution as part of any plan submitted to Congress.

BE IT FURTHER AND FINALLY RESOLVED that copies be sent to the President of the United States, Arizona, California, and Nevada Congressional Delegations, the Governors of Arizona, California, and Nevada, and the following Native American Tribes; Agua Caliente, Augustine, Barona, Big Pines Reservation, Bishop, Cabazon, Cahuilla, Campo, Capitan Grande, Chemehuevi, Cocopah/Somerton, Cosmit, Cuyapaipe, Fort Independence, Fort McDowell, Fort Mohave, Havasupai, Inaja, LaJolla, Las Vegas Paiute, La Posta, Lone Pine, Los Coyotes, Manzanita, Mesa Grande, Mission, Moapa, Morongo, Pala Pauma, Perchanga, Pyramid Lake, Ramona, Rincon, San Manuel, San Pasqual, Santa Rosa, Santa Yobel, Santa Ysabel, Sequan, Soboba, Torres Martinez, Viejas, Hualapai, Walker River, Yavapai, and Yuma; BLM-California Desert Administrative Staff, BLM-Riverside District, BLM-San Bernardino State Office District, BLM-Yuma District, BLM Nevada State Office: Bureau of Indian Affairs-Colorado River Agency, BIA Phoenix Area Office, BIA-Riverside Area Office; Native American Heritage Commission, State Historic Preservation Officers; and the American Indian Coordinating Office.

Resolution No. R-33-83

RESOLUTION
COLORADO RIVER TRIBAL COUNCIL

A Resolution to Assert and claim its sacred trust to respect and protect
traditional lands.

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting
 assembled on April 9, 1983

- WHEREAS, Indian nations have occupied and exercised stewardship over the lands throughout the North American continent since time immemorial; and
- WHEREAS, the people of these Indian nations have always been aware of their unique and sacred relationship to these lands; and
- WHEREAS, these lands and the relationship of the Indian people to them have been the principal material heritage and spiritual inspiration of all American people; and
- WHEREAS, many of these lands have been ceded by Indian nations to the non-Indian peoples, while other of these lands have been taken and are no longer considered to be owned by the Indian nations; and
- WHEREAS, it is the sacred obligation of the Indian peoples to provide stewardship for their traditional lands; and
- WHEREAS, these lands from time-to-time are considered for use as locations for power transmission lines, highways, gas pipelines, hazardous waste disposal sites, power plants and other similar developments;

The foregoing resolution was on April 9, 1983 duly approved by a vote of
8 for and 0 against, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1.v. Article VII of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

Anthony Drennon, Sr.
 Chairman

Elliot L. Borch
 Secretary

RESOLUTION NO. R-33-83
 APRIL 9, 1983
 PAGE 2

- WHEREAS, some developments and activities may be consistent with the exercise of our stewardship responsibilities, while the construction of other developments has in the past caused the damage and destruction of the religious and cultural values relative to the land, as well as the land itself; and
- WHEREAS, the protection and preservation of these lands which constitute our heritage depends upon the judicious, coordinated efforts of the American people, governments and commercial concerns with the Indian nations;
- NOW, THEREFORE, BE IT RESOLVED that the Colorado River Indian Tribes hereby dedicate themselves to the protection and preservation of their traditional lands;
- BE IT FURTHER RESOLVED that the Tribes hereby assert and claim a reserved easement over all off-reservation traditional lands for the purpose of fulfilling their sacred trust with respect to such lands, including but not limited to, the right to preserve and protect areas of particular spiritual significance;
- BE IT FURTHER RESOLVED that the Tribes request the support of the other tribal governments, the federal, state and local governments, and all other organizations and agencies, whenever the positions of such governments and organizations are in accord with our stewardship responsibilities, to preserve our traditional lands;
- BE IT FURTHER RESOLVED that the Tribes will aid other tribal governments in their efforts to similarly preserve and protect their traditional lands.
- BE IT FURTHER AND FINALLY RESOLVED that the foregoing claim of reserved easement shall not be deemed or construed to be in derogation of any greater right to property ownership and sovereignty that the Tribes may have to any of their traditional tribal lands.

Resolution No. 7-16-79

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL

State the position of the Colorado River Indian Tribes regarding
A Resolution to antiquities occurring within traditional Indian use areas on
public lands

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting
assembled on March 16, 1979

WHEREAS, there are Indian artifacts found on public land and other land
presently under federal jurisdiction, and

WHEREAS, said land is a traditional use area of the Tribes of the Colorado
River Indian Reservation, and

WHEREAS, artifacts found were originally made, used, and owned by the
ancestors of said Tribes, and

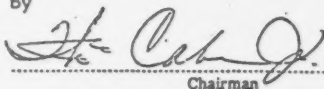
WHEREAS, these artifacts were never sold or otherwise transferred in
ownership, and

WHEREAS, some of these artifacts and the area from which they came may be
considered by the Tribes as sacred,

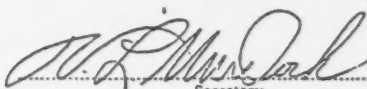
The foregoing resolution was on March 16, 1979 duly approved by a vote of
5 for and 0 against, by the Tribal Council of the Colorado River Indian
Tribes, pursuant to authority vested in it by Section 1(X) Article VI of the
Constitution (or By-Laws) of the Tribes, ratified by the Tribes on July 12, 1937, and approved
by the Secretary of the Interior on August 13, 1937, pursuant to Section 16 of the Act of June
18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By



Chairman



Secretary

Approved:

Superintendent

RESOLUTION NO. D-16-79
MARCH 16, 1979
PAGE 2

NOW, THEREFORE, BE IT RESOLVED that interested Tribes of the Colorado River Indian Reservation consider themselves the rightful owners of the artifacts acquired from traditional use and sacred areas. And these Tribes through the Tribal Council wish to reserve the right to ultimately determine the disposition of both sites and artifacts under consideration.

Resolution No. R-14-79

RESOLUTION

COLORADO RIVER TRIBAL COUNCIL

State the position of the Colorado River Indian Tribes concerning
 A Resolution to use, development, and access to public and private lands which
are traditional use areas by interested members of the Tribes of
 the Colorado River Indian Reservation special
 Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting

assembled on March 16, 1979

WHEREAS, development or use of traditional lands both now and in the future
 may have impact on the Colorado River Indian Reservation and its
 people, and

WHEREAS, traditional use areas and sacred areas of the Tribes of the Colorado
 River Indian Reservation are not all contained within the external
 boundaries of the Colorado River Indian Reservation, and

WHEREAS, traditional Indian lands under consideration may also be sacred, and

WHEREAS, these sacred and traditional use areas hold continued importance to
 the Tribes and their descendants, and

WHEREAS, Tribal government is sovereign, and

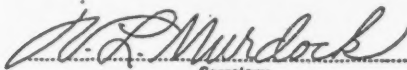
WHEREAS, the Congress of the United States in recognition of Tribal sovereignty
 and tradition through an Act have established the right of Native
 Americans to practice their own religion (P.L. No. 95-341), and
 The foregoing resolution was on March 16, 1979 duly approved by a vote of
5 for and 0 against, by the Tribal Council of the Colorado River Indian
 Tribes, pursuant to authority vested in it by Section 1(V) Article VI of the
 Constitution (or By-Laws) of the Tribes, ratified by the Tribes on March 17, 1937, and approved
 by the Secretary of the Interior on August 13, 1937, pursuant to Section 16 of the Act of June
 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By



Chairman



Secretary

Approved:

.....
 Superintendent

MINUTE NO. R-14-79
 MARCH 16, 1979
 PAGE 2

WHEREAS, the State of California has established legislation to protect the Native American interests on Public Lands (Public Resources Code, Division 5, Chapter 1.75, as revised),

NOW, THEREFORE, BE IT RESOLVED that the Tribal Government will seek to secure for its people the right of access and review of use and development to determine if such use is compatible with traditional usage. Tribal Government will not abrogate the Indian people from these rights but will seek to perpetuate the traditional and sacred use of traditional lands.

Resolution No. R-85-79

RESOLUTION
COLORADO RIVER TRIBAL COUNCIL

A Resolution to Take a position concerning transmission lines and other utilities crossing Indian lands and/or lands adjacent to Indian Lands

Be It resolved by the Tribal Council of the Colorado River Indian Tribes, in ^{special}~~XXXXXX~~ meeting

assembled on December 7, 1979

WHEREAS, the Colorado River Indian Tribes exercise sovereign jurisdiction over lands of the Colorado River Indian Reservation, and

WHEREAS, these lands are the ancestral homelands of the Mohave Tribe and use areas of other tribes of the Colorado River Indian Tribes of this reservation, and

WHEREAS, utility companies have proposed from time to time the construction of transmission lines and other utility corridors crossing Indian lands in order to transmit power through Indian lands, and

WHEREAS, the Tribes of the Colorado River Indian Reservation were not adequately consulted prior to any discussion of these proposals, and

WHEREAS, the construction of these transmission lines if permitted will markedly interfere with the full development of reservation lands, and

WHEREAS, the tribes will not receive any direct power benefit from transmission lines crossing the reservation, and

The foregoing resolution was on December 7, 1979 duly approved by a vote of

5 for and 1 against, by the Tribal Council of the Colorado River Indian

Tribes, pursuant to authority vested in it by Section 1(r) Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

H. Cab...
 Chairman

M. P. Murdoch
 Secretary

RESOLUTION NO. R-85-79. _____

PAGE 2

December 7, 1979

WHEREAS, there are known potentials for safety hazards associated with such lines, and

WHEREAS, it is within the powers of the Tribes to make the final decision concerning any activity on the reservation,

BE IT RESOLVED that no preliminary studies on the Colorado River Indian Reservation be undertaken without the prior knowledge and the consent of the Tribes,

BE IT FURTHER RESOLVED that the Tribes be consulted whenever any utility company proposes any activity on, near, or crossing reservation lands,

BE IT FINALLY RESOLVED that copies of this Resolution be sent to all the President, Senator Kennedy, State Delegations, Governors of Arizona and California, Bureau of Indian Affairs and its sub-agencies, Arizona and California reservations, Bureau of Land Management, California Heritage Commission, Native American Museums Association, National Congress of American Indians, National Tribal Chairmen's Association.

RESOLUTION
COLORADO RIVER TRIBAL COUNCIL

A Resolution to Assert and claim its sacred trust to respect and protect traditional lands.

Be It resolved by the Tribal Council of the Colorado River Indian Tribes, in regular meeting assembled on April 9, 1983

WHEREAS, Indian nations have occupied and exercised stewardship over the lands throughout the North American continent since time immemorial; and

WHEREAS, the people of these Indian nations have always been aware of their unique and sacred relationship to these lands; and

WHEREAS, these lands and the relationship of the Indian people to them have been the principal material heritage and spiritual inspiration of all American people; and

WHEREAS, many of these lands have been ceded by Indian nations to the non-Indian peoples, while other of these lands have been taken and are no longer considered to be owned by the Indian nations; and

WHEREAS, it is the sacred obligation of the Indian peoples to provide stewardship for their traditional lands; and

WHEREAS, these lands from time-to-time are considered for use as locations for power transmission lines, highways, gas pipelines, hazardous waste disposal sites, power plants and other similar developments;

The foregoing resolution was on April 9, 1983 duly approved by a vote of 8 for and 0 against, by the Tribal Council of the Colorado River Indian

Tribes, pursuant to authority vested in it by Section 1.V. Article VII of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

Anthony Drennan Sr.
Chairman

Elliot L. Borch
Secretary

RESOLUTION NO. R-33-83
 APRIL 9, 1983
 PAGE 2

WHEREAS, some developments and activities may be consistent with the exercise of our stewardship responsibilities, while the construction of other developments has in the past caused the damage and destruction of the religious and cultural values relative to the land, as well as the land itself; and

WHEREAS, the protection and preservation of these lands which constitute our heritage depends upon the judicious, coordinated efforts of the American people, governments and commercial concerns with the Indian nations;

NOW, THEREFORE, BE IT RESOLVED that the Colorado River Indian Tribes hereby dedicate themselves to the protection and preservation of their traditional lands;

BE IT FURTHER RESOLVED that the Tribes hereby assert and claim a reserved easement over all off-reservation traditional lands for the purpose of fulfilling their sacred trust with respect to such lands, including but not limited to, the right to preserve and protect areas of particular spiritual significance;

BE IT FURTHER RESOLVED that the Tribes request the support of the other tribal governments, the federal, state and local governments, and all other organizations and agencies, whenever the positions of such governments and organizations are in accord with our stewardship responsibilities, to preserve our traditional lands;

BE IT FURTHER RESOLVED that the Tribes will aid other tribal governments in their efforts to similarly preserve and protect their traditional lands.

BE IT FURTHER AND FINALLY RESOLVED that the foregoing claim of reserved easement shall not be deemed or construed to be in derogation of any greater right to property ownership and sovereignty that the Tribes may have to any of their traditional tribal lands.

Resolution No. K-04-12

RESOLUTION **COLORADO RIVER TRIBAL COUNCIL**

A Resolution to Take a position concerning the preservation of ancestral use areas of the Mohave and other Tribes

Be it resolved by the Tribal Council of the Colorado River Indian Tribes, in ^{special} ~~regular~~ meeting

assembled on December 7, 1979

WHEREAS, the present administrations of both Federal and State government support cultural area preservation for Native Americans through the following legislation existing: American Indian Religious Freedom Act, P.L. 95-341; National Environmental Policy Act, P.L. 91-190; Joint Resolution American Indian Religious Freedom S.J. Res. 102; An Act for the preservation of American antiquities, June 8, 1906 (34 Stat. 225), Public Law No. 209; Archaeological Resources Protection Act of 1979, P.L. 96-95; and California legislation establishing the Native American Heritage Commission, AB - 4239 signed into law, September 29, 1976 and legislation to protect the Native American interest on Public Lands (Public Resources Code, Div. 5, Chapter 1.75, as revised) and Arizona Antiquities Act of 1960 amending Title 41, Chapter 4, Article 4, Arizona Revised Statutes, and

WHEREAS, there are areas on and contiguous to the Colorado River Indian Reservation extending to remote areas which are still the ancestral and traditional use areas of the Mohave and Chemehuevi of the Colorado River Indian Tribes, and

The foregoing resolution was on December 7, 1979 duly approved by a vote of 5 for and 1 against, by the Tribal Council of the Colorado River Indian Tribes, pursuant to authority vested in it by Section 1(r) Article VI of the Constitution and By laws of the Tribes, ratified by the Tribes on March 1, 1975 and approved by the Secretary of the Interior on May 29, 1975, pursuant to Section 16 of the Act of June 18, 1934, (48 Stat. 984). This resolution is effective as of the date of its adoption.

COLORADO RIVER TRIBAL COUNCIL

By

J. C. Cal...
Chairman

W. F. Murdock
Secretary

PAGE 2
DECEMBER 7, 1979

WHEREAS, these lands will continue to be the subject for further development, use plans and/or preservation.

BE IT RESOLVED that the Mohave and other Tribes whose interests are effected be consulted immediately prior to and during any discussions regarding the respective Indian cultural concerns involving the disposition of lands.

BE IT FURTHER RESOLVED, that all final decisions permitting the use of Indian cultural areas contain a written consent from the respective Tribe or Tribes setting forth stipulations for the project.

BE IT FINALLY RESOLVED that copies of this resolutions be sent to all the President, Senator Kennedy, state Delegations, the Governors of Arizona and California, Bureau of Indian Affairs and its subagencies, southern California and Arizona Indian reservations, Bureau of Land Management, California Heritage Commission, Native American Museums Association, Public Service Companies, Papago Freeway Highway Commission, National Congress of American Indians, National Tribal Chairmen's Association and others.

Cultural Systems Research, Inc.

823 Valparaiso Avenue, Menlo Park, California 94025
(415) 323-9261 • (415) 832-8489

April 15, 1989

To Whom It May Concern:

This is to call to your attention and confirm the value of the Campbell collection of artifacts now held at the Joshua Tree National Monument at Twentynine Palms, California. This collection is of value to all the Native American people whose ancestors lived in the area in which it was collected as a visible reminder and symbol of their cultural heritage. It is of value to the ethnographic and archaeological communities because it contains "type" specimens of archaeological tools, and because of the information it carries with respect to the material culture, economy, and religious practices of the indigenous peoples. It is ultimately of value to the general public as a national treasure.

The collection dates from the immediate post-Pleistocene to the late prehistoric, and consists of some 80,000 pieces of pottery (including large painted ollas), late nineteenth and early twentieth century baskets, groundstone and flaked stone artifacts, and such rarely-found artifacts as carrying nets and other rare, precious, and not-often-preserved objects. The more recent materials in the collection can be identified as associated with Mohave, Chemehuevi, Cahuilla, Serrano, and other southern California groups.

Because the buildings now available for the storage of the collection at the Joshua Tree National Monument are not adequate, the Park Service has made plans to remove it to the Western Archaeological Conservation Center in Arizona. It should remain in California, where adequate facilities for its care and preservation should be developed. Here the elders from the tribes to whose ancestors it belonged can be brought to redocument the collection; that is, to document the circumstances under which the various items were made, used, and traded, and to explain their meaning. Here Indian children and young people of all communities in southern California can be brought to learn about and learn to appreciate their cultural heritage--a step that is urgent in view of the low self image public attitudes can induce in all too many young Native Americans. All can draw inspiration and delight from the various items.

The collection includes human remains. These should be managed as directed by representatives of the Native American groups of the area.

The values of the Campbell collection are enhanced by the careful records that the Campbells kept of where and under what circumstances they found objects, and were ahead of their time in understanding their meaning. The deductions they drew fifty and more years ago shaped California archaeology in directions that persist today. This collection is an important California cultural resource, and it urgent that a way be found to keep it here.

Sincerely,
Lowell John Bean, Ph.D.



Professor
California State College, Hayward
President
Cultural Systems Research, Inc.

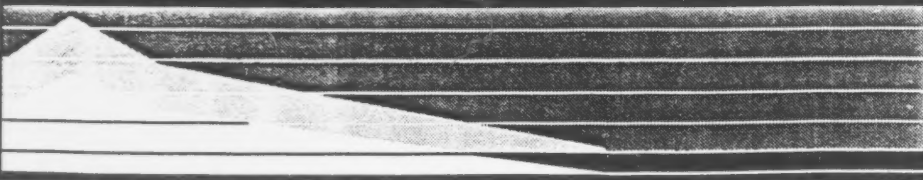
CANDIDATE SITES SELECTION REPORT

EXECUTIVE SUMMARY

USEcology

JUNE 1987

CALIFORNIA LOW LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY PROJECT



CALIFORNIA LOW LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY
CANDIDATE SITES SELECTION REPORT

EXECUTIVE SUMMARY

June 1987

US ECOLOGY, INC.

US ECOLOGY, INC.
1600 Dove Street, Suite 408
Newport Beach, California 92660
(714) 955-1201

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EXECUTIVE SUMMARY

STATEWIDE SCREENING AND CANDIDATE SITES SELECTION

This report describes the method US Ecology used to select three candidate sites for California's low level radioactive waste (LLRW) disposal facility. The three candidate sites are: 1) Panamint Valley (Inyo County, 29 miles north of Trona/Pioneer Point); Silurian Valley (San Bernardino County, 15 miles north of Baker) and; 3) Ward Valley (San Bernardino County, 25 miles west of Needles). US Ecology intends to apply to the California Department of Health Services (DHS) for a license to construct the disposal facility at one of these sites.

BACKGROUND TO CANDIDATE SITES SELECTION

Background and Need for Disposal Facility Development

California law requires that a LLRW disposal facility be established in California to meet the state's responsibilities under the federal Low Level Radioactive Waste Policy Act for safe disposal of LLRW generated in the state by non-federal activities. California produces approximately 200,000 cubic feet of such LLRW annually. California's LLRW currently is disposed at two of the nation's three LLRW disposal facilities: Richland, Washington, and Beatty, Nevada.

The Low Level Radioactive Waste Policy Act and Amendments

In the late 1970's, Washington, Nevada and South Carolina (location of the third disposal facility) made it clear that their states would no longer bear the burden of the nation's LLRW disposal. In response, Congress enacted the Low Level Radioactive Waste Policy Act of 1980. This act gave each state the responsibility for managing its own waste and encouraged the states to form regional compacts.

As the states experienced delays in establishing new disposal sites, Congress passed the LLRW Policy Amendments Act of 1985. This act provides for the three existing facilities to remain open to all states until 1993 providing that the states show progress toward disposal facility development. Congress established specific milestones to demonstrate progress. The ultimate deadline is 1993, at which time the states must have a disposal facility ready to receive the LLRW or have entered into a compact with one or more states that have a facility. To ensure that progress is made, Congress allowed Washington, Nevada and South Carolina to impose significant surcharges on waste disposal at the existing facilities. In 1993, those states can refuse to accept other states' LLRW. In 1993, each state must assume responsibility for all its non-federal LLRW, whether or not it has an established disposal facility.

In December 1982, the Nuclear Regulatory Commission (NRC) issued Title 10 Part 61 of the Code of Federal Regulations. These regulations provide requirements for disposal of LLRW and identify criteria for site selection. 10 CFR § 61.50, Disposal Site Suitability Requirements for Land Disposal, identifies the technical basis for the siting criteria developed for the California facility.

California Legislation

In response to federal law, the California Legislature passed AB 1513, Chapter 95 (1982) and SB 342, Chapter 1177 in 1983. Consistent with the California Radiation Control Law, AB 1513 directed the California Department of Health Services (DHS) to develop a plan for the management, treatment and land disposal of LLRW and to assume responsibility as the licensing authority for the facility. Among other mandates, AB 1513 required DHS to develop siting criteria consistent with 10 CFR Part 61, which was incorporated into the California Administrative Code under Title 17, Section 30470. In response, DHS recommended criteria which incorporated the federal regulatory requirements, and made additional recommendations reflecting California's specific conditions.

Among other provisions, SB 342 directed the Governor to perform a statewide screening study to identify suitable disposal areas, and to select a "license designee" to establish a site. These responsibilities were assigned to DHS. In response, DHS conducted a statewide screening study. The results were summarized in its 1984 report Low-Level Waste Area Suitability Study.

Consistent with SB 342, DHS selected US Ecology, Inc., as the license designee to find suitable sites for the facility, characterize them, apply for a license, and upon licensing, construct and operate the facility. The Legislature directed that the license designee would carry out these activities under DHS oversight.

US Ecology's Site Selection Studies and Activities Leading to Facility Development

US Ecology is following a three phase program leading to development of California's LLRW disposal facility. In Phase 1, US Ecology carried out systematic statewide, regional and local screening studies during 1986-1987. The investigation included the development and application of site selection criteria. In April 1987, US Ecology identified three candidate sites.

Phase 2, Site Characterization, is US Ecology's program of detailed site studies. These studies will be conducted to meet regulatory requirements. Specific technical investigations will be carried out over a minimum period of one year to determine that the site is technically suitable to contain the waste and will pose no hazards to public health and safety. These include studies of groundwater, surface water, seismicity, geology, meteorology, biology, mineral resources, population and other environmental features related to implementation of federal and California law. The results will be summarized in US Ecology's Proponent's Environmental Assessment (PEA) to be completed in 1988. The PEA will summarize the characterization studies, assess environmental and socioeconomic impacts and associated mitigation aspects, and describe the proposed facility design.

In Phase 3, US Ecology will apply for a license for a facility at one of the candidate sites. The complete license application will include detailed engineering design, operation plan and safety procedures, closure plan and other information. It also will contain supportive information and assessment of hazard from radionuclide migration. DHS will review the license application, conduct independent environmental assessments in accordance with the California Environmental Quality Act, hold public hearings on the environmental impact report and the license application, and approve specific facility design and operational requirements. License approval is expected to occur in 1989. Following granting of the license, US Ecology will begin construction. Waste disposal is scheduled to begin in 1990.

SITE SELECTION CRITERIA DEVELOPMENT

Site Selection Goals

US Ecology's site selection process was driven by the overriding requirement of finding a technically suitable site. These requirements, codified in California law and set forth in DHS's guidelines (Figure 1), were the framework for selecting candidate sites in Phase 1. The requirements also dictate the elements of the Phase 2 characterization program. The Phase 3 licensing process will ensure that they are fully satisfied. US Ecology began its site selection process by identifying four siting goals including:

- 1) protection of public health and safety;
- 2) protection of the environment;
- 3) public acceptability; and
- 4) reasonable cost, and site selection on a schedule that would minimize financial penalties resulting from California's continued reliance on out-of-state facilities and, ultimately, failure to meet legally required siting milestones.

Five Types of Site Selection Criteria

Given the above goals, US Ecology developed criteria to apply throughout the site selection process (Figures 2 and 3). These included five types of criteria:

- *technical suitability criteria,*
- *exclusionary criteria* beyond technical suitability requirements,
- *discretionary criteria,*
- *public acceptance,* and
- *schedule requirements* of the LLRW Policy Act Amendments.

Technical Suitability Criteria. Criteria development began with identification of regulatory requirements for near surface disposal from which the *technical suitability criteria* were developed. All other criteria were subordinate to them. These criteria are discriminatory in part (e.g., eliminate all areas within the 100-year flood plain) but also establish performance standards for natural conditions at the facility site. US Ecology defined ten technical suitability criteria based on regulatory requirements. These included hydrological, geotechnical, demographic and resource suitability criteria.

Hydrologic Suitability Criteria

Criterion No.1. To facilitate full characterization, modeling, monitoring and analysis, seek sites in topographically closed basins.

Topographically closed basins provide hydrologic and geologic conditions that are likely to be less complex than those in large regionally extensive, or open integrated drainage systems. In a closed basin, surface and subsurface pathways (e.g., surface runoff or groundwater flow) for potential transport of contaminants from a site are more readily identified and modeled.

Criterion No.2. Seek sites in arid areas receiving less than ten inches average annual precipitation.

This criterion was adopted from the State's statewide screening study. In the warm mid-latitude arid zones, potential evapotranspiration greatly exceeds available moisture, thereby minimizing infiltration into the soil and greatly reducing the potential for contamination of groundwater by the wastes. The potential for groundwater recharge is small and localized to areas where surface water can concentrate, such as in drainage channels and areas of ponding.

Criterion No.3. Avoid water bodies, wetlands, and potential flooding areas.

This included avoidance of all water bodies, perennial or seasonal wetlands, and areas of seasonal or occasional flooding, such as the dry lake beds (playas) and major dry washes. It included avoidance of all 100-year flood hazard zones.

Criterion No.4. Seek sites with groundwater conditions that minimize the potential for contact with the wastes. There should be sufficient distance between the waste and the underlying groundwater to allow for early detection of any leakage well before it would contact the groundwater.

A minimum depth to groundwater of 100 feet was chosen as the minimum limit for screening areas. Assuming wastes could be buried as deeply as 50 feet, the 100-foot depth to groundwater criterion allows for a minimum 50-foot vadose (unsaturated) zone between the waste and the water table.

Geotechnical Suitability Criteria

Criterion No.5. Seek sites underlain by porous, non-indurated geologic materials that have primary porosity rather than difficult to characterize secondary (fracture or solution opening) porosity that occurs in bedrock.

Movement of any potential contaminants would be difficult to characterize at sites located in bedrock. Therefore, bedrock areas were excluded during screening. This criterion was operationally defined to exclude all areas where bedrock was less than 150 feet deep.

Criterion No.6. Avoid areas displaying the possibility of significant future tectonic activity.

Avoidance of high hazard areas was the key to application of the criterion. The criterion was operationally defined to include:

(a) avoidance of all historically active earthquake faults (evidence of movement within the last 200 years) and potentially active earthquake faults (evidence of movement in Quaternary time, that is, the last two million years). Minimum setbacks of 0.5 mile from the mapped trace of a fault and 2 miles from the projected trace were established along mapped faults to avoid areas potentially subject to ground rupture during earthquakes.

(b) avoidance of areas that have been uplifted, folded or warped by tectonic processes in Recent time (last 10,000 years).

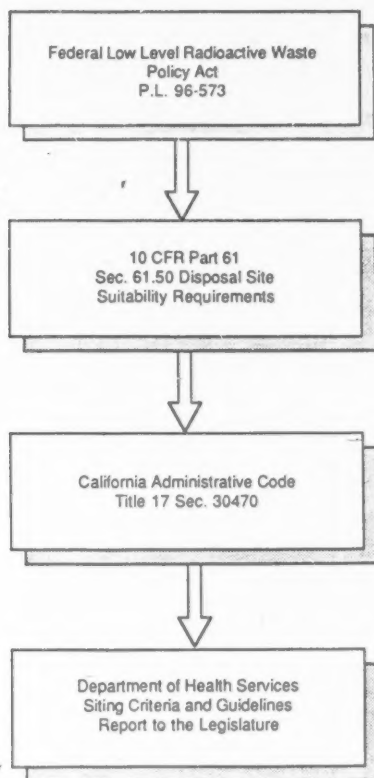


FIGURE 1
FEDERAL AND STATE REQUIREMENTS AND GUIDELINES
RELATED TO SITING OF CALIFORNIA'S LOW LEVEL
RADIOACTIVE WASTE DISPOSAL FACILITY

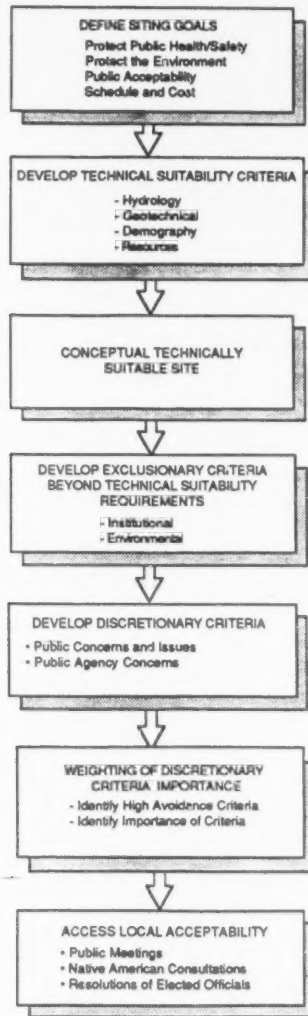


FIGURE 2
U.S. ECOLOGY'S SITE SELECTION CRITERIA DEVELOPMENT

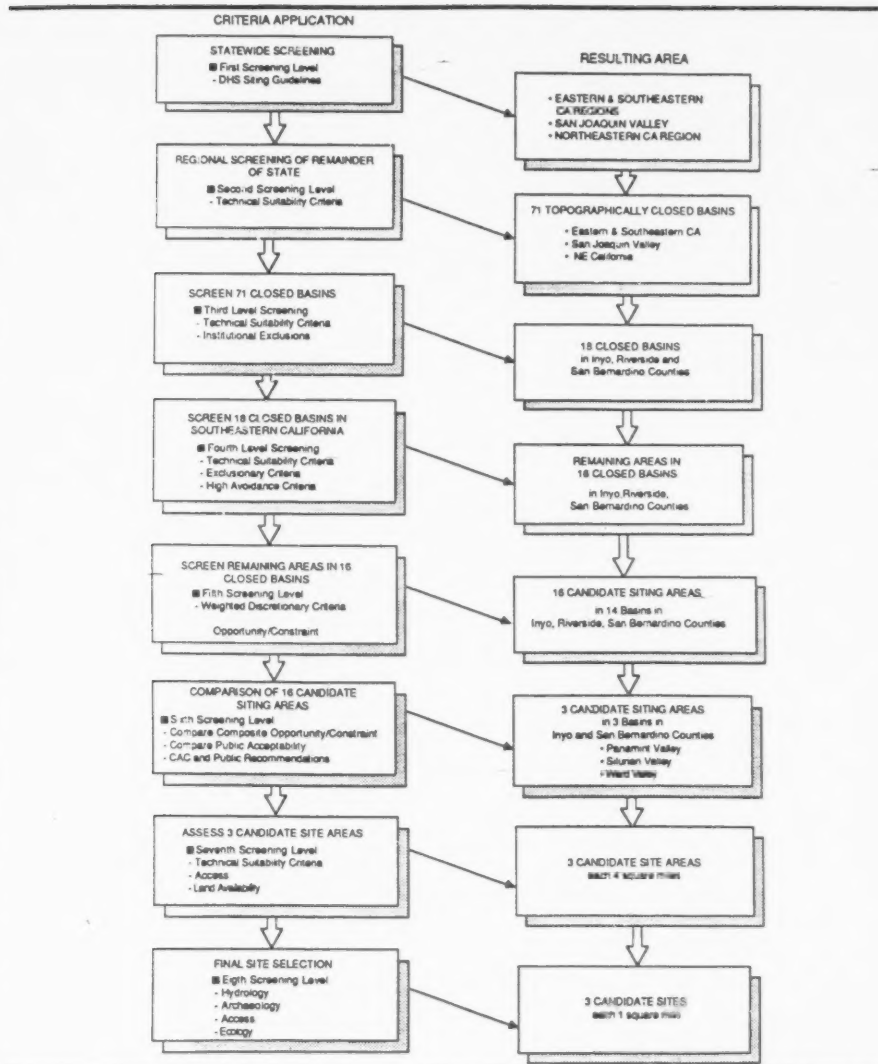


FIGURE 3
SITE SELECTION CRITERIA APPLICATION

Criterion No.7. *Avoid areas of potential future volcanic activity.*

Areas near known volcanoes or historic volcanic activity were excluded. The operational definition included a minimum 5-mile setback from all Recent volcanoes and cinder cones.

Criterion No.8. *Avoid geomorphically unstable areas of sand dunes, active dune sand, subsidence and landslides.*

Areas where surface geologic processes could impair the ability of the site to meet performance objectives should be avoided. The operational definition of unstable soil areas included avoidance of

- o areas on or in the path of large landslides or slumps;
- o sand dunes;
- o eolian (wind deposited) sand deposits or dune sands;
- o areas in which land subsidence has occurred.

Operational definition included a one-mile setback applied to mapped sand dunes; this allows for potential shifts or migration of the dunes. In eolian or dune sand areas, a setback was not used because movement of these deposits in a way that would significantly impact a potential site is less likely. All mapped dune sand areas were avoided.

Land subsidence has occurred in portions of California because of natural and man-made processes including tectonic activity, dewatering of sediments, application of water to soils with low moisture content and pressure decline in artesian aquifers in oil and gas production zones. Fissures and cracks caused by subsidence could damage surface and subsurface soils. A one-mile setback was applied.

Demographic Suitability Criterion

Criterion No.9. *Avoid existing and projected areas of concentrated population.*

The operational definition included interpretation of the projected outer boundary of potential concentrated population 1,000 persons per square mile at the year 2010. This criterion was adopted from DHS's statewide screening study.

Resource Suitability Criterion

Criterion No.10. *Avoid areas of existing or potentially economic mineral or energy resource development.*

The operational definition of the criterion included avoidance of any known existing mine and areas of extraction of oil, gas or geothermal resources, or mapped mineral and energy resource potential by the U.S. Geological Survey, California Division of Mines and Geology, and California Division of Oil and Gas. It included all known geothermal resource areas and proven oil and gas resource and reserve areas. However, the presence of a leasehold for geothermal, oil or gas was not considered sufficiently restrictive to exclude an area unless the leasehold coincided with a proven resource.

The operational definition included all existing quarries but did not include areas of potential aggregate extraction. Aggregate is abundant and widely distributed in California, and, therefore, is not considered to be of special economic importance.

Concept of a Technically Suitable Site for California. An optimum site would be located on a large, stable alluvial area in a topographically closed basin in a portion of the desert that is remote from areas of concentrated or significantly growing population. The site would be situated well above the flood hazard zone of the dry lake and away from large washes. The site would not be situated where bedrock would be too close to the surface. The site would have a minimum depth of 100 feet to groundwater. The site would be free of hazards from fault rupture, landslide, sand dunes, subsidence and volcanism. The site would have no known economic mineral or energy resource potential and no nearby activities that could severely impair facility performance.

Exclusionary Criteria. Following development of the technical suitability criteria, the next criteria applied were those that are exclusionary from an institutional or environmental perspective. These criteria do not fulfill any specific regulatory requirement, but pose practical restrictions to development. Their application eliminated large areas within the state.

Institutional Exclusionary Criteria

Exclusionary Criterion No.1. *Exclude all U.S. National Parks and Monuments, U.S. National Forests and Recreation Areas, National Wildlife Refuges, State Parks and State Recreation Areas.*

Exclusionary Criterion No.2. *Exclude topographically closed basins which cross the border of California with adjacent states and Mexico.*

Because of the time framework for completing siting, characterization, environmental review and licensing studies, it was necessary to minimize interstate and international institutional controls over site selection and permitting. For this reason, US Ecology avoided areas that would involve potential permitting by another state or nation, unless there was a specific need to pursue such a site. This excluded border areas with Arizona, Nevada, Oregon and Mexico.

One exception was made to this criterion. Because the Inyo County Board of Supervisors requested that US Ecology consider the Pahrump Basin, the area was evaluated. Throughout Phase 1, it was recognized that location of the Pahrump Basin astride the California-Nevada border was an important constraint.

Exclusionary Criterion No.3. *Exclude all military reservations.*

In response to comments received at public meetings, US Ecology identified topographically closed basins located on military bases. Consultations were held with the bases to explore the possibility of acquiring military lands for the facility. Each base responded that the facility would conflict with its ability to carry out normal operations and could compromise national security. Therefore, US Ecology eliminated these areas from consideration.

Exclusionary Criterion No.4. *Exclude BLM Class C lands, Areas of Critical Environmental Concern, and the East Mojave National Scenic Area.*

The BLM owns and manages the California Desert Conservation Area which contains a variety of designated multiple use land management categories and special management areas. These areas present restrictions with regard to development, new road construction, environmental impact and visual landscape alteration.

BLM Class C Lands. This multiple use classification would require BLM to continue to manage the areas as wilderness with use restrictions that include prohibition of a LLRW disposal facility.

ACECs. The Areas of Critical Concern (ACECs) require special management attention to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish or wildlife resources, or other natural systems or processes or to protect life and safety from natural hazards.

East Mojave National Scenic Area. Other areas under BLM jurisdiction which possess rare, unique, or unusual qualities of scientific, educational, cultural, or recreational significance may have one of the "Special Area" designations applied to them. The East Mojave National Scenic Area is such an area.

Exclusionary Criterion No.5. *Exclude lands held for preservation and research of the natural environment including University of California Natural and Water Reserves and Nature Conservancy Reserves.*

These specially preserved lands were included as exclusionary areas because of their particular value for education and research in perpetuity.

Environmental Exclusionary Siting Criteria

The environmental exclusionary criteria do not apply to any specific regulatory requirement or the State's Siting Guidelines. However, they address specific requirements of the National Historic Preservation Act as amended and the National Wildlife Protection Act as amended. They carry the same effective weight as the technical suitability criteria.

Exclusionary Criterion No.6. *Avoid sites at designated historic landmarks in the National Register of Historic Places.*

This criterion was interpreted to include those archaeological sites and historic landmarks and sites that had been formally listed in the National Register at the time of the siting studies under federal Historical Properties Preservation (PL 89-665) and the Archaeological and Historical Preservation Act (PL 89-665).

Exclusionary Criterion No.7. *Avoid formally designated "critical habitats" of federally listed endangered plant or animal species.*

This criterion was operationally defined to include the formally designated critical habitat areas of the federally listed species under the Endangered Species Act (PL 93-205).

Discretionary Criteria. Discretionary criteria were developed after the technical suitability and exclusionary criteria. The discretionary criteria were based on the summarized input of the public and public agencies. Using public input, the discretionary criteria were differentiated further by designation as *high avoidance criteria* and *weighted discretionary criteria*.

The discretionary criteria were developed by US Ecology through a systematic process of 1) determination of specific issues, followed by 2) criteria definition, 3) criteria refinement, and 4) weighting of the importance of each criterion.

The sequence of development of objectives and criteria is briefly summarized below. Agency staff, Native Americans, technical experts and researchers also participated in criteria development and weighting.

- | | |
|--------------------|---|
| June 6 - 7, 1986 | First CAC meeting. US Ecology described the overall goals of the project and method of site selection. |
| June 24 - July 1 | First Round of public meetings; public identified issues and concerns about the project using Issues Questionnaire. |
| July 18 - 19 | Second CAC meeting. <u>CAC Exercise 1:</u> CAC reviewed summary from the public meetings results; CAC identified site selection "factors", providing preliminary classification of each factor as exclusionary, or as a constraint or opportunity. |
| August 22 - 23 | Third CAC meeting: <u>CAC Exercise 2:</u> CAC translated siting factors into specific objectives and corresponding criteria.

<u>CAC Exercise 3:</u> the CAC weighted each criterion. The CAC also recommended application of specific exclusionary criteria. |
| Sept. 30 - Oct. 13 | Second round of public meetings. Citizens reviewed the siting objectives and criteria and filled out an exercise rating siting criteria importance. |
| Oct. 17 - 18 | Fourth CAC meeting. <u>CAC Exercise 4:</u> CAC reviewed summary of public input on criteria and importance ratings and recommended final objectives and weighted criteria. |

These steps resulted in the identification of ten siting objectives with 57 corresponding criteria. They also resulted in the identification of the importance weightings of each criterion to guide US Ecology in applying the criteria to the 18 basins. Discretionary criteria were categorized according to specific ratings as "high avoidance", "high importance", "moderate importance", "low importance" and "opportunity".

High Avoidance Criteria

- Avoid all Wilderness Study Areas (WSAs).

The WSAs are areas managed by BLM as wilderness until Congress acts on their final status in 1991 (at the earliest). Some WSAs are recommended by BLM as Class C, and were treated as exclusionary areas.

- *Avoid all areas of cultivated agriculture.*

Many people at the public meetings stated this as a primary issue. No specific federal, state or local policy prohibits development of the LLRW disposal facility on agricultural lands. US Ecology defined the criteria to include existing cultivated lands and areas under development for cultivated agriculture.

High Importance Criteria

- *Avoid individual residences.*

A minimum setback of 0.5 mile from each residence was established.

- *Avoid all designated historic sites.*

Both designated state and federal historic sites were mapped. The exclusion area included the actual location of the historic feature.

- *Avoid aqueducts and reservoirs.*

- *Avoid designated areas of the emergency release of water.*

This criterion related specifically to occasional necessary spillings of water by the Metropolitan Water District from aqueducts.

- *Avoid public water supply wells: avoid well fields or high capacity production wells.*

High to Moderate Importance Criteria

- *Avoid identified historic sites.*

This criterion included historic sites that are not formally designated in the National Historic Register.

- *Avoid designated campgrounds.*

- *Seek compatibility with county general plans.*

Moderate Importance Criteria

- *Seek site close to a divided highway.*

- *Seek BLM Class M lands.*

Of the various BLM land management categories, it is the only one for which sale or exchange is permitted without a formal amendment to the California Desert Conservation Area (CDCA) Plan.

- *Seek sites located within designated utility corridors.*

The CDCA Plan designates corridors for utility transmission lines and pipelines. Many members of the CAC felt that utility companies have a high degree of responsibility for cooperating in siting the LLRW disposal facility because they

generate a significant proportion of the waste. For this reason, the CAC regarded the utility corridors as potential siting opportunity areas.

- *Avoid popular rockhounding areas.*
- *Avoid popular hunting areas.*

Moderate to Low Importance Criterion

- *Avoid designated off-road vehicle (ORV) use areas.*

Designated ORV use areas include both large activity areas, many of which are included in the BLM's Class I (Intensive) multiple use land management category, and specific trails or tour routes, such as the Parker 400 Race Route.

Criteria Lacking a Majority Rating of Importance by the CAC

- *Consider areas proposed for wilderness designation under Senator Cranston's Desert Protection Bill.*

If this bill were enacted, development of the LLRW disposal facility would be prohibited in the areas of designated wilderness and parks. Many of those areas coincide with National Monument, proposed Class C, ACEC and EMNSA exclusionary lands and WSA high avoidance areas. Additional areas are included in the Bill. The CAC did not reach agreement on the importance of the criterion. The Bill was generally considered where the proposed areas could reasonably be avoided without ruling out an entire remaining basin.

- *Consider siting in relation to the proposed state prison development.*

The California Department of Corrections indicated concern regarding any site near their preferred site for a proposed state prison in the Chuckwalla-Ford Basin. The CAC had widely varying viewpoints about the criterion, and, therefore, it was not specifically applied.

- *Consider siting in relation to views from designated scenic highways.*

The State of California and cooperating counties have designated specific highways as scenic routes. Such designation carries some specific restrictions regarding development in a corridor immediately adjacent to state and interstate highways. Beyond the corridor, regulation is controlled by the County or the BLM. The CAC had widely varying opinions about its importance as an avoidance criterion. US Ecology avoided areas within the immediate highway corridor (1,000 feet from the edge of the highway) of a designated scenic route.

- *Consider siting in relation to BLM Visual Resource Management (VRM) classes and views from National Monuments.*

VRM classes designate specific management goals for visual resources and BLM has developed specific procedures for determining visual sensitivity and degree of contrast of proposed facility development. Some VRM classes are very restrictive, especially with regard to recommended Class C areas, ACECs and WSAs. The CAC had widely varying opinions about site development in relation to visual resources. US Ecology regarded the most restrictive VRM category as an avoidance factor.

Public Acceptability. US Ecology stated from the outset that acceptability of the site to the nearby communities would be of high importance. US Ecology's public participation program began after the 18 basins were identified in early 1986. Throughout the year of study, US Ecology obtained a continuous reading of the levels of acceptability for the facility throughout the desert. This was accomplished through citizens' direct input at the three rounds of public meetings, presentations to local organizations and meetings with local representatives, radio interviews including many with a listener call-in format, and discussions with local interest groups. US Ecology kept files of local newspaper articles and direct correspondence to the company and DHS.

Consultations were held with representatives of Native American tribes. These meetings focused on the sensitivity with regard to Native American resource use, cultural and religious values in the closed basins and, later, in each of 16 Candidate Siting Areas. A key objective was to identify known cultural resource areas or sacred land features proximate to the CSAs. This information provided an indication of the level of acceptability of the CSAs to Native Americans as sites for the facility. The information about level of acceptability to local communities and Native Americans was shared with the CAC.

While the above activities provided background information about public attitudes, acceptability to the public was evaluated by US Ecology using three important sources:

- 1) The input of the CAC. The input of the CAC to a large degree reflected public opinion about the CSAs. The CAC was asked to make informed recommendations, but the ratings of each member reflected their own viewpoints. US Ecology recognized that the recommendations were made in light of the carefully considered body of information and public opinion about the CSAs, and therefore were reflective of the viewpoints, both informed and otherwise, of the citizenry of the region.
- 2) Direct input of the from three rounds of public meetings. Citizens attending the meetings were invited to comment on their concerns and to make siting recommendations. Many attendees completed the exercises on issues identification, on criteria definition and importance rating, and on comparison rating of the 16 Candidate Siting Areas. The results were summarized and presented to the CAC.
- 3) Positive resolutions on the project passed by representative bodies. By early January 1987, a number of formal resolutions had been passed by various representative bodies of elected officials.

Schedule Requirements. US Ecology set a goal of opening the LLRW disposal facility in 1991. This goal, if realized, will allow California to meet the schedule requirements of the Low Level Radioactive Waste Policy Act. To achieve this goal, US Ecology projected completion of Phase 1 Candidate Sites Selection by early 1987. The identification of the three Candidate Sites was made in spring 1987. This delay was made with DHS's approval to accommodate extensive public involvement in evaluation of the Candidate Siting Areas.

CRITERIA APPLICATION

After the criteria were defined, they were applied on a state-wide, regional, and subregional basis to define the Candidate Siting Areas and later on a local basis to identify the Candidate Sites. In no case were criteria applied selectively or unequally.

Not all criteria were applied at the same time. Some criteria referred to information categories that allow mapping at small scale, and/or already have been mapped; location of the ten-inch isohyet was such a criterion. Other criteria referred to information that required an intensive mapping-effort, which necessarily restricted the application to the later phases when the target areas were much smaller in size; avoidance of individual residences is an example.

Criteria application was completed in eight steps (Figure 3).

- 1) Statewide screening, *the first screening level*, involved application of DHS siting guidelines. This eliminated areas receiving more than ten inches mean annual precipitation, National and State Forests, National and State Parks, Monuments, Wildlife Refuges and designated Recreational Areas and areas with a projected population of 1,000 or more per square mile by the year 2000.

This screening eliminated most of California and identified a large contiguous area in southeastern California, the San Joaquin Basin, and isolated basins in northeastern California (Figure 4).

- 2) Screening of the remaining areas in the state, *the second screening level*, involved regional application of US Ecology technical suitability criteria. This eliminated areas not within a topographically closed basin, areas of unstable soils caused by subsidence, areas with less than 150 feet depth to bedrock, and major areas of potential volcanic activity.

This screening identified 66 topographically closed basins located in a large contiguous area in southeastern California, the southernmost closed part of the San Joaquin Basin, and four isolated basins in northeastern California.

- 3) Screening of 71 topographically closed basins, *the third screening level*, involved application of some technical suitability and exclusionary criteria. The screening occurred in two steps: first, elimination of hydrologically and geotechnically unsuitable areas and, second, elimination of institutional exclusionary areas.

This screening eliminated hydrologically and geotechnically unsuitable areas: areas of potential flood hazard and wetlands; areas with less than 100 feet depth to groundwater; areas with existing or projected extensive use of the groundwater within the basin; local areas of potential hazards from volcanic activity; areas of significant tectonic hazard from earthquake faulting and other tectonic processes; unstable soil areas including major landsliding, subsidence areas, sand dunes and dune sands.

This screening also eliminated institutional exclusionary areas: topographically closed basins which cross the borders of the state; military bases; and BLM Class C land recommendations.

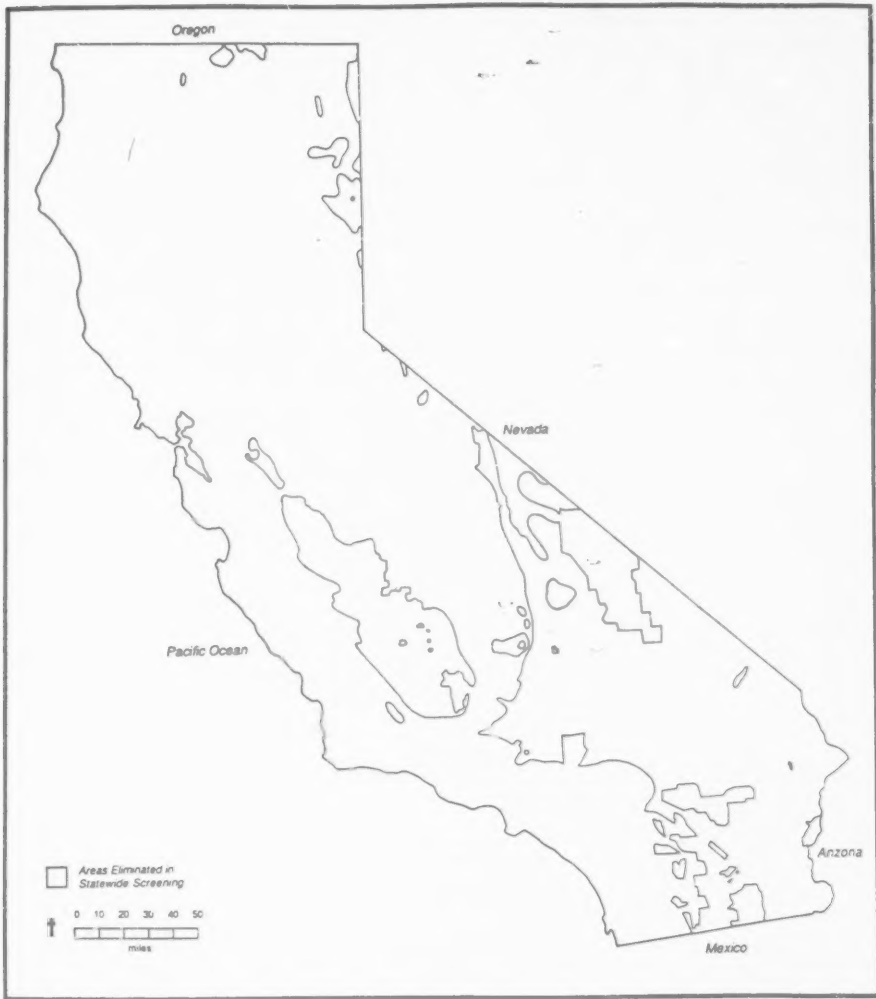


FIGURE 4
AREAS REMAINING AFTER APPLICATION OF DHS CRITERIA
(FIRST LEVEL SCREENING)

This screening identified 18 topographically closed basins that potentially contain technically suitable sites. The 18 basins are located in Inyo, Riverside and San Bernardino Counties (Figure 5).

- 4) Screening of 18 topographically closed basins, *the fourth screening level*, involved application of technical suitability and exclusionary criteria, and high avoidance criteria.

This screening eliminated areas of potential flooding, shallow groundwater, shallow bedrock, areas of potential earthquake fault rupture, unstable sand dunes and dune sand, existing and projected concentrated population and potential economic mineral or energy resource development.

The application of exclusionary institutional and environmental criteria eliminated ACECs, the East Mojave National Scenic Area, Nature Conservancy Reserves, University of California Natural and Water Reserves, designated historic landmarks in the National Register of Historic Places and formally designated "critical habitat" areas of federally listed endangered plant or animal species.

The application of High Avoidance discretionary criteria eliminated all Wilderness Study Areas, and areas of existing or planned cultivated agriculture.

The application of the above criteria eliminated two basins entirely - the Saline Basin and the Sheephole Basin, and large areas within the remaining 16 basins.

- 5) Screening of remaining areas in 16 topographically closed basins, *the fifth screening level*, involved mapped overlays of the weighted discretionary criteria.

This method was used to identify 16 Candidate Siting Areas (Figure 6).

- 6) Comparison of 16 Candidate Siting Areas (CSAs), *the sixth screening level*, considered the discretionary criteria and public acceptability. This included a rating exercise completed by citizens attending the third round of public meetings in which they rated the CSAs. This was followed by Exercise 5 completed by the CAC, in which they compared more detailed information about each of the 16 CSAs, the ratings of the public and information about acceptability of the facility to the local communities. The CAC recommended the top CSAs for further evaluation. The results were summarized in the League of Women Voters' Report of the Site Selection Citizens Advisory Committee in early 1987.

After considering the CAC recommendations, public meeting results, Native American input and local resolutions, US Ecology identified three CSAs for further study; the Panamint Valley CSA about 30 miles north of Trona, the Silurian Valley CSA about 15 miles north of Baker and the Upper Ward Valley CSA about 25 miles west of Needles. Two alternate site areas were also identified: Fenner Valley CSA near Essex and Danby CSA in Lower Ward Valley near Rice (Figure 7).

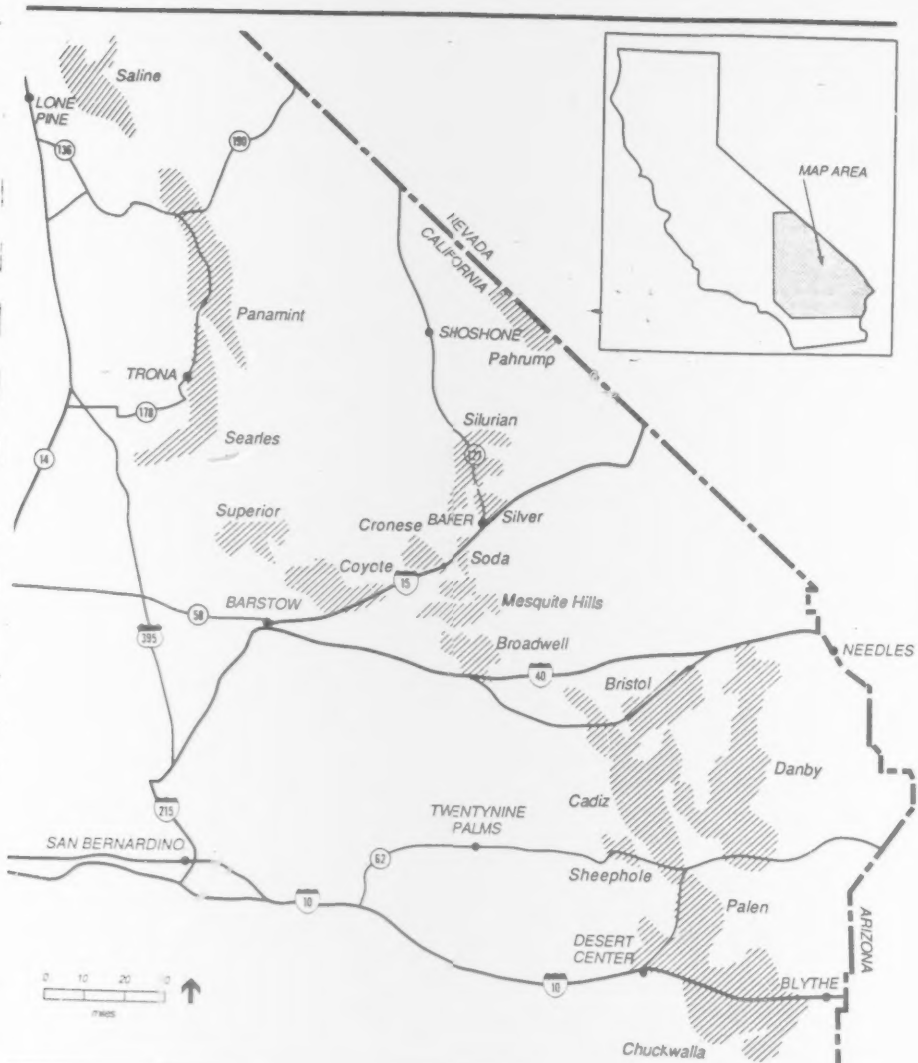


FIGURE 5
18 TOPOGRAPHICALLY CLOSED BASINS
CONTAINING TECHNICALLY SUITABLE SITES



FIGURE 6
TOPOGRAPHICALLY CLOSED BASINS
CONTAINING THE 16 CANDIDATE SITING AREAS

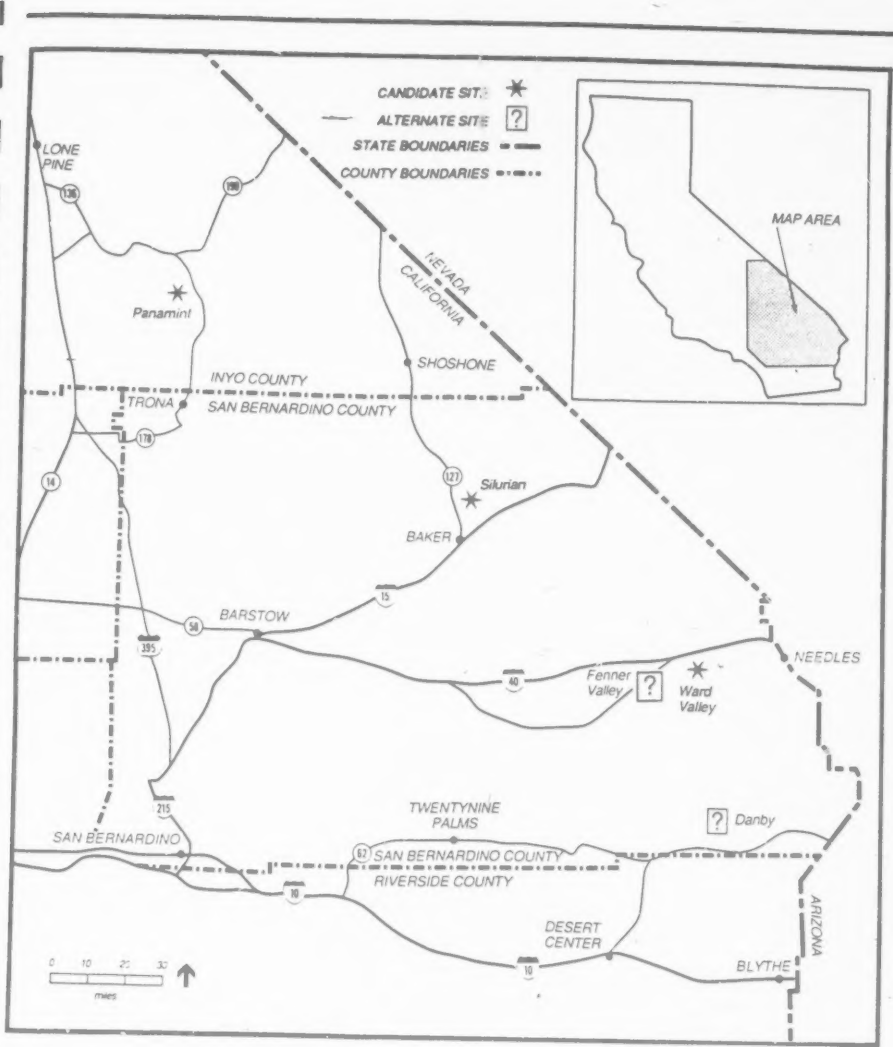


FIGURE 7
LOW LEVEL RADIOACTIVE WASTE DISPOSAL FACILITY
CANDIDATE AND ALTERNATE SITES

- 7) Evaluation of three Candidate Site Areas, *the seventh screening level*, used technical criteria applicable at large scale including general geotechnical suitability, general surface hydrology, access and land ownership/management criteria.

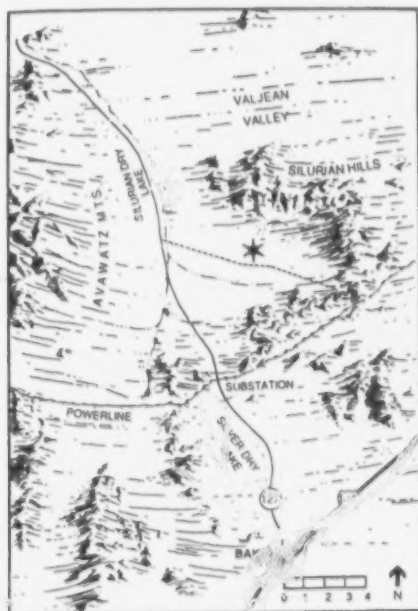
Application of these criteria identified Candidate Site Areas each totalling four square miles in the three CSAs.

- 8) Selection of three Candidate Sites, *the eighth screening level*, used detailed technical suitability criteria and environmental criteria. On-site surveys of ecological resources and surface hydrology were conducted. Optimal locations were mapped, and one square mile was selected in each Candidate Site Area. The three Candidate Sites include (Figure 8):

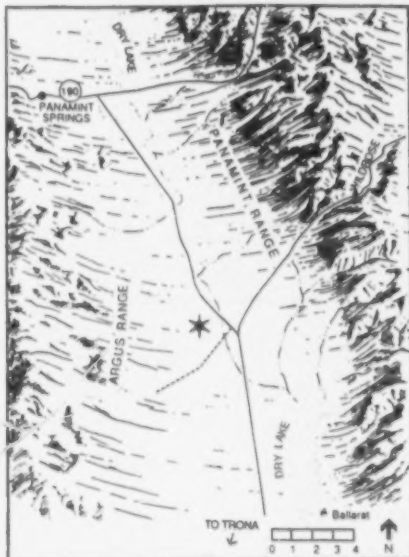
Ward Valley Candidate Site. Section 34, Township 9 North, Range 19 East, San Bernardino Baseline and Meridian.

Silurian Candidate Site. Section 10, Township 16 North, Range 8 East, San Bernardino Baseline and Meridian.

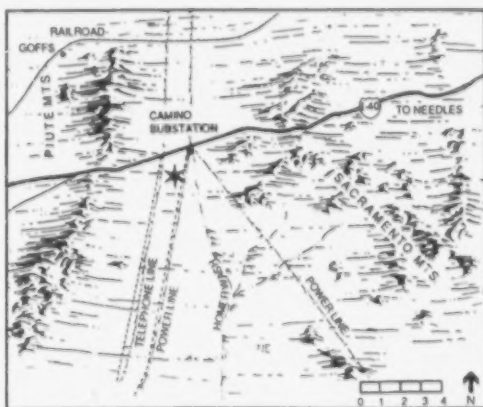
Panamint Candidate Site. Northern half of Section 33 and the southern half of Section 28, Township 20 South, Range 43 East, Mount Diablo Baseline and Meridian.



SILURIAN VALLEY CANDIDATE SITE



PANAMINT VALLEY CANDIDATE SITE



WARD VALLEY CANDIDATE SITE

FIGURE 8
CANDIDATE SITE AREA LOCATIONS

SENATOR DANIEL INOUE, CHAIRMAN
 SENATE SELECT COMMITTEE OF INDIAN AFFAIRS
 ROOM 838 HART SENATE OFFICE BUILDING
 WASHINGTON, D.C. 20510-6450

MR. CHAIRMAN,

My name is Lorenzo Clark and I am a member of the Santa Ysabel Band of Mission Indians in Southern California. I would like to thank you for the opportunity to allow me to present testimony concerning housing problems on Indian Reservations in Southern California.

The housing needs on Reservations in California are critical. Three Fourths of the housing units on Reservations are dilapidated, substandard, overcrowded and in need of basic plumbing facilities. Hundreds of Indian homes are so deteriorated that thorough rehabilitation is required to meet an Indian family's minimum needs. Many Indian homes cannot be rehabilitated and must be completely replaced. Adequate housing is severely limited in Indian areas forcing families without homes to squeeze into crowded homes or to live in cars, tents, or make-shift shelter (the Indian equivalent of Homeless).

In 1987 The Bureau of Indian Affairs undertook a survey of 186,000 Indian households that were located in Indian areas across the United States. The survey determined that 93,000 new or substantially rehabilitated homes were needed. Two basic facts underlie Federal Indian Housing efforts: There are substantial differences amongst the over 300 Tribes, geographic, cultural, and legal differences and a trust relationship which prohibits land alienation. This trust is essential to the survival of Indian Tribes. This unique trust also means that both conventional real estate lending practices and Federal Insurance and Lending Programs are as a practical matter unavailable to most Indians living on Reservations. Federal Assistance is essential while other means of financing homes on Trust Land continue to be explored.

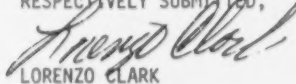
Although the newly enacted Indian Housing Act of 1988 (PL100-358) now provides a solid basis for moving ahead the Federal Government will need to provide additional Programs and funding to adequately meet the need. This will require addressing low-income housing needs by providing at least 6,000 additional units each year.

(PAGE TWO)

These programs which exist are the Community Development Block Grant through the U.S. Department of Housing and Urban Development and the Housing Improvement Program through the U.S. Department of Interior Bureau of Indian Affairs.

The need to end the Indian Housing Crises is critical, therefore, it is imperative that funding Indian Housing Programs become a high priority until the needs are met.

RESPECTIVELY SUBMITTED,



LORENZO CLARK

SANTA YSABEL BAND
OF MISSION INDIANS

TESTIMONY SUBMITTED TO THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

Based on the January, 1989, Indian Service Population and Labor Force Estimates published by the Bureau of Indian Affairs, there are 90 small tribes (under 1500 people) in the State of California having a total population of 22,297. These tribes, though small, have many of the same critical needs as large tribes in areas such as education, jobs, housing and health care.

Small tribes in California find themselves in a unique position. Due to their small populations, they have a far better potential to resolve major problems impacting their memberships than do many large tribes, yet at the same time their smallness severely limits the funding they receive through federal programs. Few have trust assets or other tribal income, so most are dependent upon federal programs to provide the funds necessary to maintain tribal governmental operations and meet the needs of tribal members. Present levels of funding fail to provide for stable tribal governmental operations. As a result, the needs of tribal members frequently go unmet.

Small tribes are generally forced to operate with a tribal chairperson and council who donate their time and a skeleton office staff. Frequently the day to day routine of conducting tribal business limits their ability to gain expertise in the multiplicity of areas impacting modern day tribes.

Only minimal funding is provided for small tribes through Other Aid to Tribal Government contracts with the Bureau of Indian Affairs. Many are forced to periodically close down operations or operate on a part time basis only. Tribes have an urgent need to stabilize their administrative operations.

Within California there are numerous issues and concerns which tribes simply cannot address consistently without additional funding for basic tribal administration. Tribes are often unable to attend meetings of the BIA, IHS, state and tribal organizations due to lack of administrative funding.

This situation becomes even more imperative when viewed in the overall context of ever-expanding tribal populations. Unless major problems are addressed in the immediate future, some small tribes may find their memberships expanding to the point where they are facing the same situation characteristic of many larger tribes--chronic high unemployment, overcrowded housing, and growing social problems with little immediate chance for resolution.

Tribes now have the potential to contract all agency-run programs. This, in itself, will result in greater demands on councils and staff and require additional expertise in administering programs previously run by the Bureau of Indian Affairs. Immediate steps need to be taken to increase the funding for basic tribal administration for small tribes.

We also urge the Housing Improvement Program (HIP) be banded and the funding increased. Present funding is inadequate to meet the critical need for new housing and housing rehabilitation.

Funding for education for many small tribes does not provide sufficient funds for them to support even one of their

students for a school year. Immediate funding increases are needed in the area of education.

Another area of neglect is the Indian Child Welfare Act Program. Funding is provided primarily for urban programs. There is a serious need for a viable Indian Child Welfare Program serving the north coast tribes.

We recommend that BIA Facility monies be banded as a means of realizing a savings which could be better spent elsewhere.

The Bureau of Indian Affairs is conducting an Equity Study to reassess base funding levels for tribes throughout the United States. An equitable level of base funding needs to be established for small tribes.

<i>Janet H. Buttrick</i>	<i>Elk Valley Rancheria Chairperson</i>
<i>Vigil M. Woodard</i>	<i>Big Lagoon Rancheria</i>
<i>Adams Boore</i>	<i>Redwoodville Rancheria</i>

ADDENDUM

We would also like to bring to the Committee's attention the need for Congress to take action to protect the religious rights of Indian People. Under current law, there is no protection against destruction of our traditional sacred sites. In our area the Forest Service has proposed building a road through the Chimney Rock/Doctor Rock sacred area. This type of desecration and destruction to our people's traditional religious practices and sacred sites is something that Congress must take action to stop. We request that an amendment to the American Indian Religious Freedom Act, such as that introduced last month in the House by Representative Morris Udall and last year in the Senate by Senator Cranston, be passed by Congress without further delay. It is critical that our religious rights and practices receive the protection they are entitled to immediately.

**Testimony To The Senate Select Committee
On Indian Affairs**

**Re: Cahuilla Band Of Indians' Bureau of Indian Affairs,
Housing & Improvement Program New Housing Funding**

The Cahuilla Band of Indians is a federally recognized Indian Tribe located in Riverside County, California. The reservation consists of approximately 18,000 acres.

In 1988 the Cahuilla Band received funds through the Housing & Improvement Program of the Bureau of Indian Affairs, Southern California Agency Office, (BIA) in Riverside, California. These funds were to be used to construct two new homes. The monies should have been deposited into an account requiring the Band's, and/or the home recipient's, consent for all withdrawals. Instead, the BIA Housing Officer deposited the funds into an account from which the selected contractor had full power to unilaterally withdraw all funds.

The above bank deposit was made without signed construction contracts in place, without bonding requirements being followed, and without the consent of the Band. The contractor quickly withdrew all funds, without performing under the contract, and the homes still remain only 10 to 50% completed. The original completion dates were approximately October, thus this project is now seven to eight months overdue.

Page 3

RECOMMENDATIONS:

The home recipients have requested that the BIA seek a waiver of a \$45,000 construction cap that would enable the Bureau to seek additional replacement funds to complete these homes. Although such action has been promised, the Band has not received evidence that this waiver has been sought. —

It is the Band's request that this Committee investigate what remedial action, if any, the Bureau has undertaken to remedy the loss of the above needed housing. The Band also requests this Committee's assistance in obtaining a waiver of the \$45,000 per home cap from the BIA, Washington Central Office, as required by the Code of Federal Regulations. (25 CFR Part 256).*

The Cahuilla Band wishes to express its sincere appreciation for any assistance you can provide.

THE CAHUILLA BAND OF INDIANS

* The Cahuilla Band is also aware that homes have also been lost or delayed under the same circumstances on the La Jolla, Pala, and Torrez-Martinez Indian Reservations.

**Comments submitted by the Cahuilla Band of Indians to the Senate
Select Committee on Indian Affairs relating to the hearing on
April 27, 1989 at Escondido, California.**

Thank you for this opportunity to submit testimony concerning the problems affecting Indian tribes in Southern California, and the Cahuilla Band of Indians, of Riverside County, California, in particular.

Testimony heard in Escondido on April 27, 1989, recounted the unique history of the Federal Government's treatment of California tribes, and the fact that tribes in this state are greatly underfunded. In part, this is due to the "termination era" of the 1950's and the passage of P.L. 280. Federal funding and services were withdrawn from California in anticipation of full assumption by the state. Although this policy has long been repudiated, funding and services have never been restored to pre-termination era levels.

You have heard testimony about the effects of this underfunding on the small tribes in California, who are unable to safeguard their lands from illegal dumping, to provide adequate health services or substance abuse prevention and treatment, to provide adequate law enforcement, or to counter the encroachment of development on their once isolated reservations.

In 1988, Congress passed amendments to P.L. 93-638 which clearly expressed the philosophy that the problems of Indian people are best addressed by the Indian people themselves, through the instrument of self-determination contracting. It is the Band's belief that a unique situation exists for the small

tribes of California, which may frustrate the intent of Congress in enacting the 638 amendments and actually produce the opposite result of what was intended.

We fear that the result will be contracts for California tribes that are far too small in scale to maintain even the current level of services, BIA and IHS services that are less responsive to tribal needs, or declination to contract at all despite the clear intent of Congress that tribes should be able to contract.

How can this be? The answer is found in the current debates concerning the 638 draft regulations for IHS and BIA on "divisibility" and "contractability" issues. While Congress may not want to be involved in the regulation writing process at this stage, we feel that it should understand that no matter what final divisability and contractability rules are established, inadequate funding for California's small tribes will likely cause a loss in services to tribes, such as the Cahuilla Band.

The divisability problem occurs in a multi-tribal BIA agency office, such as Southern California's, when a request for a contract from one of the larger tribes, (or a combination of smaller tribes), reduces the BIA's personnel and operations budget to the extent that it cannot maintain sufficient staff to operate programs for the tribes that remain under agency jurisdiction.

If the resolution of this problem is that the request for a contract is to be declined, then the tribes requesting the contract will be denied the opportunity to manage their own affairs as intended by the 638 amendments. On the other hand, if the contract is granted, the inevitable result will be a diminution of services to those tribes not contracting for services. Statements have already been made by BIA officials in the Riverside Agency Office to the effect that some future services may have to be provided out of the Sacramento Area Office should any of the larger tribes contract for their services under 638.

We also believe that many of the small tribes in California will not be able to obtain 638 contracts even if they so desired, because their funding levels will be inadequate to achieve the purposes for which the money was intended. Such low funding would render it impossible for the small tribes to employ the staff necessary to properly implement and administer the contracts, which could result in disallowed costs, and eventual disqualification from Federal contracting entirely.

Clearly a solution must be found to these problems because a reduction in services to the small tribes that need it most was clearly not the intent of the 638 amendments. We believe that the only realistic solution is a funding measure that substantially increases the funds available for small tribes in California. It is for this reason that the California tribes have asked Congress

for a minimum amount of \$200,000 per tribe in order to ensure that each tribe is able to hire the minimum staff necessary to manage 638 contracts.

The Southern California tribes would like to work with you and your staff, in conjunction with Congressional representatives from California, on a small tribes initiative bill that would address the funding problems inherent in the 638 amendments. We fear that without swift action on such a measure these amendments will prove of little or no value to California's small tribes, and may actually reduce the current meager level of services being provided. It is our sincere hope that you can assist us with such a bill.*

Thank you for this opportunity to present our views to the Committee.

* The tribe has spoken to staff at California Indian Legal Services, Escondido Office, Address: P.O.Box 2457, Escondido, Ca 92025 Telephone: (619) 746-8941, and they indicated that they could assist us in working on such a bill. Please either contact us, or them directly, if you can help on such a bill.

A STATEMENT

The Santa Ynez Indian Reservation, is located in the Santa Ynez Valley in Santa Barbara County.

An agreement was signed by the Santa Ynez Indian Reservation with the All Mission Indian Housing Authority of Escondido, California, on 1970, to provide thirty-six (36) homes on twenty-seven (27) acres of (reservation) land for Indian families for twenty-five (25) years.

Thirty-six (36) modular homes were moved on these 27 acres of (our) land. However, there is private property that runs thru this part of reservation land. The housing authority did not get an easement to go thru this property with the sewer line before the sewer system was hooked up.

The BIA is in the process of obtaining an easement, however, they have been at it for over a year. Plumbing was not installed properly so they (the homes) did not pass inspection. These homes are being vandalized, and have been for over a year. Walls are being kicked in, lights, lighting fixtures, mirrors, windows, screen doors, cable boxes, and the housing authority will not provide security. The contractor claims he let the insurance lapse, and he also claims he is not responsible for any damage done to these homes. Some of the tenants scheduled to move into these homes have already signed leases with the housing authority.

Facts:

Many Indian families have literally been displaced. Many have moved from their present dwellings, and moved in with their relatives who already reside on the reservation. Only to be told that it would be years if ever before they would be able to move into those homes.

The news media wrote statements from officials from the sewer & water districts such as, "140 people may never be able to move into the three-to five-bedroom homes," and, "the water and sewer hookups for the new houses will not be granted."

As a result of these negative statements many of the Indian families' have moved on into apartments where their rents are exorbitant compared to what they would have been had they been allowed to move into the new homes. Many are now living in motor homes, trailers, wherever they can find a place to live. This has created a hardship on all the Indian people because of their relations who cannot move in, and the participants themselves, because some of them have given up their old residences, and cannot go back because they've already been rented out, or sold. Many have their furniture in storage, or have lost it, because they had no where to store it, nor the funds in which to pay for the storage.

RE: Housing

2

FACT:

Over ten (10) years ago, the capacity of water usage (28,000 gals per day) was commensurate with the total amount of Indian families living on the reservation. This was before the Cal 80-7, and Cal 80-13, homes were built. Their estimation of Indian people living on the reservation was 150.

We have approximately 229 people living here at present. The Cal 80-7, and Cal 80-13 homes, have 2, 3, 4, and 5 bedrooms.

Before these homes were built (Cal 80 13 & 7) all Indian families filled out questionnaires putting down every family member who would be residing in the home.

The water & sewer district claim we are now using our wastewater allotment to near capacity, which is not the case. What has happened, is; someone did not take a census of the people residing on the reservation, and compile our wastewater usage to coincide with the actual number of people living on the reservation.

Mrs. M. Cash, asked Mr. Larson at the September '88 meeting held on the reservation, why are we billed for sewer at a much higher rate than Buellton, Solvang, and Santa Ynez? His reply, "You people don't pay taxes, and the outside people do."

On a letter dated 12 September 87, which contained the following statement, "Please note the deficit in prior years amounting to \$1536. A deficit of \$4870 is projected to F.Y. 1987-88. For this reason it has become necessary to increase the monthly sewer service charges billed through the Water District."

At a meeting of the All Mission Indian Housing Authority, dated 18 October 87, the minutes contain a statement which reads like this; "The Santa Ynez Sewer District will not hook up new homes until sewage flows are reduced to acceptable levels. The Board is requested to authorize a local plumber to repair and replace, as needed, fixtures to eliminate leaks. This must be done to hook up water and sewer to new units being built."

Yet, in statements from the Santa Barbara News Press, Mr. Ron Larson, and Tom Petersen, director of the Santa Ynez River Valley Con. Dist., began warning AMIHA, and HUD about the situation in Sept. 1986, -19 months before construction on the project began. They claim the two agencies never responded.

If the agency that commissioned a \$1.3 million federally funded housing development on the Santa Ynez Indian reservation was warned two years ago that water and sewage service would not be available, but built the homes anyway, then we have a valid reason to pursue litigation. Art Bunce, who was the tribe's attorney, at the time (presently AMIHA's attorney) didn't tell us that All Mission Indian Housing Authority had been warned 23 times against building the homes, he led us to believe that if we complied with all the water & sewer district's demands that we would be able to move into our homes.

RE: Housing

3

It was also mentioned (Santa Barbara News Press, dated 01 Sept. '88) that the Band was using 80 percent of their capacity before the new project was discussed. Mentioned was the Santa Ynez authorities have tried for four years to convince the city of Solvang to expand its treatment facilities, but so far the city has refused. Larson stated, "The system cannot handle any more wastewater." He also mentioned that without wastewater treatment, there could be no sewers, and without sewers, the water district would not deliver water."

Larson also wrote a letter to Congressman Robert J. Lagomarsino in April 1987, the month construction began, and told him that for two years their district had been trying to alert all parties involved that no water or sewer hookups would be available.

But if you would go through Solvang, you could see the NYBORG ESTATES just recently built a few months ago, people are already occupying them, and all through Santa Ynez, new homes have been very recently constructed. You can view some of them just off of highway 246.

We are trying to find ways to rectify this problem, but from all indication by the water and sewer districts, we are not going to get any service from them, whatsoever, no matter what we do.

Plain and simple what they are so desperately trying to convey to the Indian people is; that, there is water & sewer, but not for the people on the Indian Reservation.

At this time the tribal members of the Santa Ynez Indian Reservation are at a loss on just exactly what to do. We want an investigation, but through experience we know this would take months if not years, and we would still be back to square one. We are frustrated, and angered because all it amounts to is biasness on the part of the water & sewer districts when it comes to Indians. Our best bet is to consult an attorney, and maybe through the judicial system, we can hope to attain our goal, and that is to place our Indian people in their homes, and have the services of the water & sewer districts like every other resident of the Santa Ynez valley and adjacent community.

By the way we do pay taxes.

- * Maps of water line running through the reservation.
- Maps of pump station location. (right of way??)
- Copies of water & sewer bills from residents of, Buellton, Solvang, and the Santa Ynez Valley.

David Dominquez, Chairman
Santa Ynez Band of Mission Indians

Testimony Before The Senate Select Committee On Indian Affairs, Sacramento, CA.

April 26, 1989

Mr. Chairman, members of the Senate Select Committee on Indian Affairs, my name is Jennie Garfield and I am an enrolled member of the Tule River Indian Reservation, located some 20 miles east of Porterville, California, in south-eastern Tulare County. As an "elder" of my tribe, I wish to express my appreciation to you for affording me the opportunity to testify before you today.

As the past Chairman of our elders program, "The Heritage Unit", I was fortunate to be able to testify before you on June 30, 1988, also here in Sacramento, California. That was the Oversight Eligibility Field Hearing. My testimony to you today concerns the P. L. 93-638 contract between the Tule River Tribe and the Bureau Of Indian Affairs (BIA), Central California Agency, which allows the tribe to administer federal programs on the reservation, formerly administered by the BIA. The Tule River Tribe was the first in California to administer such a contract, which became a reality in FY 83, after years of denial by the BIA, our "trustee", who also has a very special "fiduciary" responsibility to the Indian People.

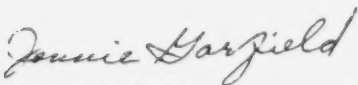
As you know, this legislation entitled the Indian Self-Determination Act, was supposed to give the Indian people more control over the federal programs on their respective reservations. This seems to have not taken place at the Tule River Indian Reservation. I'm sure you have heard this thousands of times in the past but as former President Richard M. Nixon said in his 1970 Special Message to the Congress on Indian Affairs, President Nixon explained that for years we have talked about encouraging Indians to exercise greater self-determination, but our progress has never been commensurate with our promises. Part of the reason for this situation has been the threat of termination. But another reason is the fact that when a decision is made as to whether a federal program will be turned over to Indian administration, it is the federal authorities and not the Indian people who finally make that decision. This situation should be reversed. In my judgment, it should be up to the Indian tribe to determine whether it is willing to assume administrative responsibility for a service program which is presently administered by a federal agency".

This brings me to law enforcement. Since the BIA administers this on some reservations and some of the tribes administer their own law enforcement programs, why can't the Tule River Tribe do the same through this P. L. 93-638 contract our tribe now administers in this state. Now I've heard about the stumbling blocks, such as P. L. 83-280, which supposedly gives the State of California criminal and civil jurisdiction over all Indian reservations within this state. If the Indians in this state want law enforcement on their respective reservations, then the appropriate U. S. officials and our elected tribal leadership must break down any and all barriers that may stand in our way in order that we may accomplish this goal.

As I get older, I for one become more dependent on those men and women in law enforcement, because it seems that the elderly are left alone to fend for ourselves. Our tribal leadership must not allow this to happen now and to the future generations to come. Bring law enforcement to California Indian reservations.

Mr. Chairman, this concludes my remarks and I again thank you for this opportunity to address this Senate Select Committee On Indian Affairs.

Respectfully Submitted,



Jennie Garfield
Rt. 7, Box 210
Porterville, California 93257
(209) 784-2714

Pauma Indian Reservation

ESTABLISHED 1893

P. O. BOX 86

PAUMA VALLEY, CALIFORNIA 92061

(619) 742-1289

SENATE SELECT COMMITTEE

ON

INDIAN AFFAIRS

"89"

Mr. Chairman, distinguished members of the Committee, staff, and those people who are present for this momentous occasion I wish to thank for the opportunity to address "The Committee". My name is Andrew John Majel, an enrolled member of the Pauma Band of Mission Indians. I have requested, and received the support of my people, to share with you today the precarious condition we endure in the education of our children at the primary level.

The Local Educational Agency (L.E.A.), in which the Pauma Band resides within (the La Jolla Band also) is the Pauma School District. The district is managed by an elected board comprised basically of concerned parents. These concerned parents are charged with the responsibility of a million dollar budget, intricacies of personal, not to mention the educational material which will impact all students for a good portion of their lives. The Board within a three year period has taken a savings of \$60,000.00 to the budget to a projected loss of \$26,000.00. The district implemented a multi year selection of educational materials without consultation with the Indian community. They have initiated wide spread changes in teaching personal via layoffs, that will impact the quality of teachers applying to the district, again without any consultations.

On the surface there are (2) two venues to solicit change, (1) get elected to the Board, and (2) notify the Indian Advisory Committee to implement complaint procedures. There is no realistic chance of any Indian getting elected to the Pauma School District in the foreseeable future. Although the District does apply for Impact Aid under Title 1 of the Act of September 30, 1950, Pub. L. 81-874, as amended by the Education Amendments of 1978 Public Law 95-561, they have no idea there are minimum requirements for the recite of these funds. The District is not totally to blame for the oversight of requirements to a Public Law, for within the language of Law it states the Secretary shall grant waivers where

Pauma Indian Reservation

ESTABLISHED 1893

P. O. BOX 86

PAUMA VALLEY, CALIFORNIA 92061

(619) 742-1289

applicable. Why has no one requested a copy of the Policies and Procedures, within the Secretary's Office, of the Pauma District as they were cutting the check.

What is required at a minimal, is a representative of the Secretary to meet with the District and the Indian Community to clarify the positions of all those concerned when utilizing 874 monies. Or a representative of the Secretary to meet with California Leaders in implementing new procedures for leveraging Indian Concerns in L.E.A.'s. Perhaps the Riverside Agency Educational Specialists can assist.....you mean to tell me there isn't a Ed. Sp. at our Agency. Well for such an important issue as the educating of our children the Sacramento Area Office will surely provide time for their Ed.Sp. to travel to Southern.....what! now don't tell me there isn't an Ed. Sp. in our Area Office.

Student Assistance Team



**Fallbrook
Union High School District**

(619) 728-1161, Ext. 18

Dear Parents and Members of the
Fallbrook Union High School District Community,

For many years the Fallbrook Union High School District has been concerned with meeting all of the needs of the many students we serve. Recent developments within our society have created new barriers to overcome. One of our most recent efforts has been to form a Student Assistance Team to work closely with our Student Assistance Counselor. Through this program, the Fallbrook Union High School District is reaching out to students who because of special needs are facing serious obstacles to learning.

This program is directed toward having students, parents, and community working together to solve these many problems. The goal of the Student Assistance Team is to identify symptoms as early as possible in order to provide needed help and support in a timely manner. Through this program students could receive assistance in chemical dependency, eating disorders, pregnancy, divorce, depression, suicide and stress. Staff members have been trained to look for early warning signs students may exhibit. The focus of this program is to assist students before problems reach a crisis level.

Students and parents using this program will be able to get help needed to successfully work through the problem. The program has two major components: 1) Students who self-refer or are referred by a staff member, 2) Students who break school rules which are drug related.

When students are referred to the Student Assistance Team, a process will begin which should allow for critical communication between students, their parents and staff in exploring and identifying the problems as well as looking for the many options that are available for help. As a result of this interaction, mutually agreed upon goals will be developed for long-term assistance. We sincerely hope this program will meet the needs of our student population requiring this type of special help.

Robert P. Johnson, Ed.D.

District Superintendent

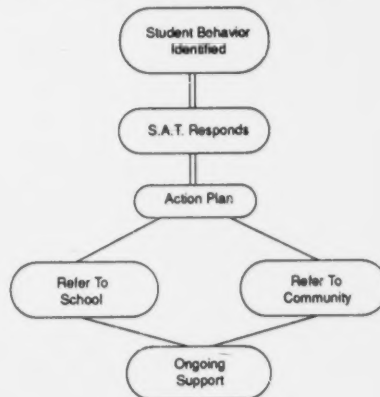
STUDENT ASSISTANCE TEAM OVERVIEW

Fallbrook Union High School implemented a Student Assistance Team. This team will try to maintain student success through their educational process. The team will be instrumental in channeling a student experiencing difficulties into behavior modifying modalities. This will promote long-term academic success while attempting to relieve the use of punitive actions. The team will try to intervene before a situation becomes a crisis.

This intervention may be an individualized student conduct code, a change in educational format, integration of the student into extra-curricular activities and if warranted referral to a variety of outside agencies equipped to handle specialized situations. Parents and community are an integral component to the success of the student.

THE ROLE OF THE S.A.T.

The Student Assistance Team (S.A.T.) will respond to concerns that may impede positive student progress.



WHAT DO I LOOK FOR?

A single symptom may not indicate a problem but a combination of two or more symptoms is a warning to parents. Consult with your school counselor to check your student's behavior and/or check with an outside professional to determine if the notable change in behavior may be due to drug usage, or other problems.

- | | |
|---------------------------------------|---|
| 1. Decline in attendance and grades | 7. Significant increase or decrease in weight |
| 2. Lost interest in activities | 8. Defiance of rules |
| 3. Radical mood swings | 9. Stealing |
| 4. Change in/or secrecy about friends | 10. Running away from home |
| 5. Physical appearance changes | 11. Problems with the law |
| 6. Verbally and physically abusive | 12. Mention of suicide |

PHILOSOPHY

Schools are a mirror of the surrounding community. Thus they reflect and imitate conditions occurring around them. Fallbrook Union High School District has a genuine concern to insure students have the necessary skills to live chemically free lives. To promote the success of this initiative Fallbrook Union High School has implemented a Student Assistance Team.

SCHOOL POLICY

The Fallbrook Union High School District has adopted a strict policy which covers students who break the law by attending school under the influence, possessing, using, or selling controlled substances or look-a-likes.

CODE VIOLATIONS AND CONSEQUENCES AS THEY RELATE TO CONTROLLED SUBSTANCES

1. Unlawfully possessed, used, sold, or otherwise furnished or been under the influence of, any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

2. Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Section 11007 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

3. Possessed or used tobacco.

4. Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11364 of the Health and Safety Code.

No pupil shall be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for acts which are enumerated in this section and related to school activity or attendance which occur at any time, including, but not limited to, any of the following:

1. While on school grounds.
2. While going to or coming from school.
3. During the lunch period whether on or off the campus.
4. During, or while going to or coming from, a school sponsored activity.

For students under 18 years of age, possession of marijuana is punishable by a fine not to exceed \$250. Second and subsequent offenses will be punishable by a fine not to exceed \$500 and commitment to Juvenile Hall, Ranch, Camp, Forestry Camp or secure juvenile home for not over 10 days. Students over 18 years of age will face the maximum penalty for their first offense. (Sections 11357 & 11361.5 of Health and Safety Code)

CONDITIONS FOR EXPULSION

The principal shall recommend a pupil's expulsion for any of the following acts, unless the principal finds, and so reports in writing to the governing board, that expulsion is inappropriate, due to the particular circumstance, which shall be set out in the report of the incident:

1. Unlawful sale of any controlled substance; as defined in Section 11007 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

A FAMILY APPROACH

The following suggestions are practices which can be incorporated into the daily life of our family. Remember, the key is to be consistent.

Listen - Let your student tell the story. Try to sense what the student is feeling.

Talk Frankly - State the facts. Avoid moralizing, nagging, criticizing or ridiculing. Seek to understand the reasons for the misbehavior (attention, power, revenge, etc.)

Follow Through - Adolescents can be made to understand that receiving certain privileges is contingent on execution of certain behavior. Parents must be consistent and follow through.

Obtain Commitments - When a problem is being resolved, allow the student to set the goal. Ask questions such as "What have you decided to do?" or "What do you expect to do if?" This helps teach the student to be self-reliant and be able to regulate his/her own behavior.

Be Consistent - Let your student know what to expect, so he/she can make their decisions accordingly. Regular routines lessen problems.

Give Responsibility - Help your student realize that the work of the world gets done because people cooperate, communicate, and willingly do their share.

Encourage - This helps a person believe in him/herself. A parent who focuses on a student's strengths and builds on his assets is helping him/her to develop an attitude of self-worth.

Be There - Plan to spend more time with your student to really begin to understand his/her feelings, needs and desires.

Communicate - Let your student know that he/she can bring any problem to you to discuss. It is in everyone's best interest to learn as soon as possible if something is going wrong. Remember that the difference between a minor incident and a full-blown crisis is usually due to the lack of day-to-day communication.

FALLBROOK UNION HIGH SCHOOL DISTRICT

P.O. BOX 368—FALLBROOK, CALIFORNIA 92028

(619) 728-1161

Robert P. Thomas, Ed D., District Superintendent
 Donald Callard, DBA, Assistant Superintendent/Business Services
 David L. Kuzmich, Ed D., Principal, FUHS
 Peter J. Barone, Principal, IHS
 Chet Francisco, Assistant Principal, FUHS
 Leticia Aroyo, Assistant Principal, FUHS

Tai Cowan, President
 Patrick H. Miller, Clerk
 Ralph Enander
 Gerhard J. Clasen
 P. K. Martin

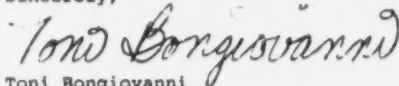
April 27, 1989

Honorable Senator Inouye and Committee Members:

I am Toni Bongiovanni. I have worked at Fallbrook High School for eleven years. The majority of this time in the classroom, recently as Student Assistance Counselor. I have lost many Indian students due primarily to substance abuse. The reasons: (refer to information in grant)

Thank you for taking time from your hectic schedule to listen to our concerns.

Sincerely,



Toni Bongiovanni
 Student Assistance Counselor

preservation of
 democratic ideals
 through education



Toni Bongiovanni
 STUDENT ASSISTANCE COUNSELOR
 (619) 728-1161
 2400 Stagecoach, P.O. Box 368, Fallbrook, CA 92025

OFFICE OF CRIMINAL JUSTICE PLANNING

Form 3

PROJECT SUMMARY

PROJECT TITLE		PROJECT NUMBER
APPLICANT: Law Enforcement School District Name: Fallbrook Sheriff Station Name: Fallbrook Union High District Address: 127 E. Hawthorne Address: 2400 Stagecoach Fallbrook, Ca. 92028 Fallbrook, CA. 92028		GRANT PERIOD From: July 1989- July 1992 FUNDS REQUESTED \$ 50,000
PROBLEM (Clearly define the problem. Support the existence of the problem with crime data, survey data, number of persons who need services, etc.) Fallbrook is a growing community suffering from rapid population increase while wanting to remain rural. This transition in itself creates stress and frustration. Adolescence is a time of change and uncertainty, peer pressure becomes a focal concern. The prevalence and promotional activities directed toward adolescent illicit drug usage are very sophisticated and unfortunately very successful. According to recent statistics, San Diego County is the leading county in the manufacture, sale and use of crystal methamphetamine in the nation, #2 in heroin use, #4 in marijuana and #6 in cocaine. It is no wonder adolescents in the county have easy access to illicit drugs. Adolescent usage is not the result of lack of parenting, poor education or stupidity but rather a desire to be different yet "adult". Educational systems are trained to educate yet more and more time is lost to educating students "under the influence" of a variety of illegal substances. Educators need assistance in identifying at risk students so that these students may receive intervention and hopefully treatment and return healthy and ready to learn. Indian students in our school system are isolated geographically which enhances their susceptibility to youth directed advertising and peer pressure. Our secondary school has approximately 2000 students. Of that number it is estimated 80% use alcoholic beverages regularly and readily, 30% use other illegal substances and a rising number are poly-drug abusers. A Substance Abuse Officer on campus has the appropriate training and skills to effectively help combat the drug abuse.		

OFFICE OF CRIMINAL JUSTICE PLANNING (Cont.)

PROJECT SUMMARY

OBJECTIVES (Must reduce or eliminate the problem. Objectives must specify measurable outcomes within specific time frames. List each separately.)

1. Encourage a drug-free lifestyle.
2. Provide a positive educational influence within the community.
3. Encourage cooperation between the school and local law enforcement.
4. Provide a safe, drug-free school environment.

Activities:

1. Saturday Seminars will be offered four times a year to address topics of concern. These are open to the community; parents, students, all concerned community members.
2. After school support groups meet weekly during the school year to aid students reentering the school system from drug treatment or detoxification. With these grant funds the support group

ACTIVITIES (What methods will be used to achieve objectives?)

will also be offered at the Pala School on the Pala Indian reservation with the addition of an Indian Support Facilitator.

3. The Substance Abuse Officer will be a participant of the Student Assistance Team to enhance prevention and diversion versus the standard punitive consequences. This team meets weekly throughout the school year.
4. The Substance Abuse Officer will conduct investigations leading to the treatment of students involved with illicit substances.
5. The Substance Abuse Officer will conduct investigations leading to the arrest and conviction of persons manufacturing and selling drugs to minors.

NAME OF RESPONSIBLE OFFICIAL

Typed Name Toni Bongiovanni

Signature Toni Bongiovanni

Date: 4-21-89

Activities:

6. The Substance Abuse Officer and Student Assistance Counselor will coordinate teacher in-service training activities to educate teachers in signs and symptoms of substance abuse. There will be two in-services yearly.
7. The Indian Support Group Facilitator will work directly on the Pala Indian Reservation weekly to insure Indian after-care success.
8. The Indian Support Group Facilitator will provide education and current information pertaining to substance abuse and drug babies to all Pala residents.
9. The Indian Tutorial Aide will aid high risk Indian students in becoming more successful in school. The aide will work with the students weekly.

OFFICE OF CRIMINAL JUSTICE PLANNING

BUDGET CATEGORY AND LINE-ITEM DETAIL	COST
A. Personal Services - Salaries	
Substance Abuse Officer \$20.00 per hour 202 school days, including summer school @ 4 hours per day= 808 hours Yearly cost \$16,160 3 year grant cost	\$48,480
Indian Support Group Facilitator \$40.00 per weekly session 33 sessions Yearly cost \$2640 3 year grant cost	7,920
Indian Tutorial Aid \$25.00 per 1 hour weekly session 30 weeks Yearly cost \$750 3 year grant cost	2,250
Secretary \$12.00 per hour 2 hours weekly 72 hours per year cost \$864 3 year grant cost	2,592
TOTAL	\$61,242

OCJP A303a

2171 Sunset Drive
Escondido, CA. 92025
April 27, 1985



Honorable Daniel K. Inouye, Chairman
Senate Select Indian Affairs Committee
Washington, D.C.

Dear Senator Inouye:

My given name is Steven E. Esquibel Sr., my Indian name is Tishmal or Hummingbird. I am Spokesman of the American Indian Elder's Society of Southern California. A true copy of the appointment to this position in life is attached. The American Indian Elder's Society was a group formed of the Traditional Elders from the reservations and Indian communities throughout Southern California. the main purpose of the group was to preserve and protect those traditional beliefs, practices, customs, and places Sacred to the Indian people within the aforementioned geographic area. I provide this information to you only to give you some background as to my life, that you might understand more clearly the context in which I write this testimony.

In the year of 1984, as Administrator of the San Pasqual Indian Reservation of San Diego County, I was asked to provide testimony to the Presidential Commission on Indian Reservation Economies established by former President Reagan. Much of what I write you now is the same content as was provided then, in that nothing has occurred since that testimony.

Through the policies, laws and practices of the United States Government Indian Reservations, Communities and Peoples have been relegated to the status of Third World Nations and Peoples. Third World Nations and Peoples residing within the interior boundaries of the United States, often dependant upon the honesty, integrity, goodwill and good faith stemming

out of the Trust relationship and Responsibility of the United States government and Indian people and communities. To address the issues, needs and problems facing Indian Communities, in their endeavors to once again become self-sufficient peoples and communities, is as complex and comprehensive task as facing other Third World nations and peoples trying to adapt their traditional and cultural ways to another system that is often at odds with their cultural past. To paraphrase Vine Deloria Jr., a noted Indian historian and author, he wrote, that until such time that American Indian people are permitted to define their future development within their own cultural and historical perspective no lasting or real solutions to the issues, problems and needs facing American Indian peoples will be developed. In 1978, the United States government passed a law entitled, The American Indian Religious Freedom Act, which provided the broad groundwork of entitling American Indian peoples to once again carry out their Traditional Customs, Beliefs, and Practices. Yet, the current interpretation by the Supreme Court of the United States government is limiting the intent of this Act to a non-Indian interpretation of Religion. The American Indian's Traditional Customs, Beliefs and Practices were a way of life that was interwoven through every facet of their existence. We need the support and the ability to once again define ourselves within our own terms.

The United States government through the passage of the Indian Reorganization Act and for California Public Law 280 has provided an umbrella which not only impedes the ability of the American Indian people to define themselves within their own Traditional context but also impedes their ability to govern, control and enforce their current laws.

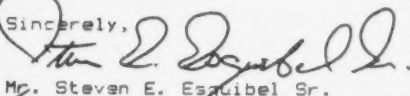
A thorough analysis of the impact of these Acts upon the development endeavors of American Indian communities needs to occur. As it currently stands Indian

communities are straddled with a political structure that often is not conducive to their needs. efforts, sound business practices, cultural reality and leaves them without the ability to internally enforce their laws. The end result of this situation is to create a system that is ripe for misuse of authority, crime from both internal and external sources, and apathy amongst the people stemming from the frustration of not being able to impact the wrongs they see in their lives and communities.

American Indian peoples and communities have many needs and problems facing themselves which are unique to themselves within the United States as mentioned in the preceding text. However, they also face many issues which are endemic to the rest of the society. One such issue or problem is that of Drugs. The use of Drugs in American Indian communities is having a devastating impact. This impact is perhaps more critical in that when one has communities that are isolated from the rest of society both geographically and socially and where one has this isolation, lack of internal enforcement as mentioned above, and often ineffective political structure it can lead to a situation ripe for the use, manufacturing, transporting and sales of Drugs. Certainly within this geographic area there are events of deaths which one can point to as evidence of this situation. Within the current Administration's efforts of establishing a anti-Drug governmental Agency or Department there needs to be developed an Indian Desk and staffing to co-ordinate a National effort of Anti-Drug review on Indian land.

In closing, I would as an American citizen like to express my gratitude to you, for standing up forcefully and eloquently in ensuring the protection of the American System through your Committee participation and Chairmanship regarding National issues. It is out of my belief that you are an honest, caring and just man truly looking out for the interests of the American peoples and their system that I write you.

Sincerely,


Mr. Steven E. Esquivel Sr.
Tishma

1-23-82

Steven Esquivel has been unanimously
 chosen as speaker for the Indian Elders
 Society. We find him dedicated, hard
 working, and loyal.

Signed:

1. Frank R. Aderton Camps Res.
2. Josephine Burton La Jolla Res.
3. Mary C. Matteson San Pasqual Res.
4. Philomena Nyborg Temecula Cal.
5. Raymond Basquez Peatanga Indian Reservation
6. Matthew Blal (Rincon) ph. 714-749-3226
7. Phil S. Stahl (Cuyamaca) ph. 449-0451
8. Jessie Beresford (3102 N 13th Ave. Laconita, Ca. 92025 Ph. 745-264)
9. Ed G. Johnson Cuyamaca
10. Anna Sandorff 5441 Reber Rd El Cajon Ca 92021
11. Tony G. Rinko Cuyamaca Res.
12. Clifford Day Bala
13. Theresa Hyde Manzanita Res.
14. George Hyde " "
15. Virginia J. Duran RT1 Box 612 Campo Ca 92006
16. Jimmie Blue Huse & Duane Spring Creek So. Dak.
17. Russell Butch Murphy P.O. Box 728 Temecula, Ca. 92370
18. Raymond A. Lobo 3231 5th SAN DIEGO CA 92105
20. MARK ESQUIBEL JUVENEO, CAPISTRANO
- 21.
- 22.

American Indian Elders Society

4-89

To whom it may concern

I'm complaining about housing I have three boys my trailer is falling apart plumbing is no good the tub dose not drain we have to dump the water out, water comes through kitchen floor. The people were to get funded.

R Miranda Diane Sulland

(Melvin Maffio. Diane got her money. Mr. Gibson said my name was misspelled on the check so they had to correct that. Then he said my money wasnt in, then I heard that four people got funded after that.

I mean while I'm waiting for my money. Now they give me a list of ten items. for me to go buy, one of them is certification of blood degree.

got Sherry Havell has
 no Indian in her, she
 got disenchanted from our
 band. Paul Vasquez is a
 plain Mexican. I'm Indian
 my wife is Indian. They
 want all these things
 from me, my papers
 were changed around some
 things missing.

I wish you would into
 all this Mr. Gibson is
 nothing but a liar. I can't
 put everything in words
 I mean I can't put things
 down on paper.

Yours Truly
 Melvin Marruffo

R. S.
 Come & see my Trailer

Josie Georgina Marruffo
 Pechanga Indian Reservation Member
 P.O. Box 337
 Temecula, Ca. 92390

UNITED INDIAN WOMEN'S CLUB, FEDERATED

April 24, 1989

TO: SENATOR DANIEL INOUGE
CHAIRMAN OF THE SENATE COMMITTEE ON INDIAN AFFAIRS
WASHINGTON, D.C.

FROM: UNITED INDIAN WOMEN'S CLUB, FEDERATED
P. O. BOX 40
PALA, CALIFORNIA 92059

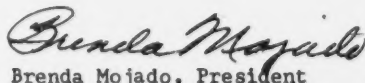
Dear Senator Inouge:

The United Indian Women's Club is an organization designed to help various communities and Indian reservations on issues of concern. The main focus is that of educational goals for Indian students to continue on into higher learning areas of their choice. Grants and scholarships help the student to continue into this realm of higher learning.

Two ladies will be presenting information on monies geared toward this particular topic. Karla Vernaci and Pattie Dixon will be giving testimony on some Indian issues on monies geared toward efforts in helping Indian students in elementary, high school, and college levels. Impact monies are of a major concern in this area and needs to be addressed.

The UNITED INDIAN WOMEN'S CLUB endorse statements given.

Sincerely,



Brenda Mojado, President
UNITED INDIAN WOMEN'S CLUB, FEDERATED

Rediscovery and the First Americans
First Citizens

Hearings: Indian Affairs, Escondido, California

April 27, 1989

The Honorable Senator Daniel Inouye,
Chairman, Sub-Committee, Indian Affairs

Senator Inouye
and members of the committee.

These hearings can very well become the stepping stones to implementation of "Justice for our Native Americans."

There is an overwhelming desire for many to know our Native Americans are established in a viable, guaranteed position that is ideal for them, that of Sovereignty.

Attempts of our Native people to secure a portion of their homelands ended when they were conquered Prisoners of War. In essence, the Prisoners of War status remains. Our Native citizens exist in a perpetual state of Government bondage.

It seems only logical to implement the same unstinting benefits to our Native American Prisoners of War here at home, as was lavished on our not-too-distant-in-the-past "enemies", Germany and Japan.

Those two nations attacked the world, inflicting destruction and suffering beyond compare. Yet, Germany and Japan were recipients of the United States outpourings of dedication and funds to restore them to their before the war status. With the unlimited aid given by our government, both Germany and Japan Prisoner of War nations now enjoy abundant prosperity and stability. The restoration plan proved remarkably successful.

The very same basic principles, with equal dedication and equal funds, can be put to rescue our Native American Prisoners of War.

The honor of our whole country is tarnished with all of the failed promises made to our Native People. "Rights" preached to the world, unfulfilled at home, compound contradictions, more for some, little, if any, for others.

We live within the realm of all possibilities. With unclouded vision, Rediscovery of America is the passport to compassion with action.

There are compelling realities:

- 1: Fulfillment of Promises for Restitution:
 - 2: Constitution guarantees for Citizen's Rights and Equality:
 - 3: Prisoner of War provisions and Declarations:
- All three are impetus upon which to structure our long awaited "Justice for our Native Americans" Enactment will soothe the grave errors.

With Sovereignty, our Native Americans will be honored with the freedoms to be themselves, our First Citizens.

Thank you.

Helen Refau

The Lesson

We hang
tentatively,
by a thread,
struggling for life
with dignity.
Waiting, waiting.

The years
of stolen yestereys
crowd
our existence
today.

Why are we
denied
our special
worth?

Our will,
steadfast
saving grace,
keeps us
unyielding
to the demand,
"Off the land!"

Buried deep
in Mother Earth,
multiple treasures,
unsuspected
from the first,
taken
without remorse.
Ruthless,
blinded by greed,
too many
succeed.

What lies ahead?
Reduce us
further
to nothingness?
Still they clamor,
"Out of the way!"
"Get dead!"

At every turn,
with every breath
denials
block our course.
Our freedom
to worship,
to be Indian,
eroded
by Giant force.

Still,
we pray
for fulfillment
of promised rights,
provisions
granted to all,
by
the Constitution.

Taking our land,
expanses more distant
than the eye
could see,
was to be
our guarantee.

Tales told
we believed
with trust
in our hearts.

The Lesson
of words spoken
by the U.S.
powers-that-be
and B.I.A.,
do not mean
what they say.
"Deception",
that
is the Lesson.

What of restitution?

Dare we stand
in friendship
with you?
Without fear?
Without
more taken away?

We are without
choice
or
voice
in our own
affairs.

We cling,
as for generations,
to that thread
for life
of our own
with dignity.
Waiting, waiting.

Richard P. Ryan

Mr. Frank Ryan

7501 Miramar Avenue

La Jolla Cal
92037

3/81

Draft letter to Senate Committee

We, the members of San Pascual Reservation, request that you investigate conditions in Southern California. Our major complaint is the high-handed fashion in which the Bureau of Indian Affairs controlled and manipulated the enrollment procedures and regulations for our reservation. They forced the inclusion of non-Indians and non-San Pascual Indians upon us. Our reservation is only one example of the Indian Agents' continual corrupt mishandling of the trust relationship over the past century.

From Shippek's book, "Pushed Into the Rocks: Southern California Indian Land Tenure, 1769 - 1986", we are enclosing xerox copies of the pages dealing with our enrollment. She was the expert that our original Enrollment Committee enlisted to provide the research and data on which to base an accurate enrollment of San Pascual members. The Bureau agent ignored the carefully compiled genealogical data and foisted a number of non-San Pascual people upon us. As a result, the real San Pascual people are frequently outvoted by the non-Indians.

We sincerely hope you will take heed and hold some hearings in Southern California. After all, there are thirty three reservations scattered through our mountains and our incorrect enrollment is only one of the major problems created by the corrupt mismanagement of the Bureau of Indian Affairs.

<u>Name</u>	<u>Address</u>
May C. Matteson	P.O. Box 1062 Valley Center Ca 92082
Calvin Baker	15746 Woods Valley as Valley Center Ca 92082
Irene M. Loney	P.O. Box 700 Valley Center, Ca. 92082
Juan M. Loney	P.O. Box 700 - Valley Center, Ca. 92082
Heber M. Loney	P.O. Box 700 - Valley Center, Ca. 92082
Arthur Loney	P.O. Box 743 - Escalante, Cal 92082
Robert Santa	P.O. Box 504 Valley Center Ca 92082
Robert L. Stewart	P.O. Box 592 Valley Center Ca 92082
Felix Loney	P.O. Box 43 Valley Center Ca. 92082



Mary Matteson of the San Pasqual Indian Reservation broke the color barrier at an Escondido movie theater in 1939. Since then, she hasn't let up in her battle for Native Americans.

Photo: New Times Advocate

For Mary Matteson, Indian problems mean personal investigation

By Eric Eyre

Times Advocate Staff Writer

Mary Matteson followed her grandfather into an Escondido movie theater in 1919 and sat down on the side reserved for Indians.

She asked why they had to sit there. He told the 7-year-old to hush and watch the movie.

Twenty years later, Matteson returned. The theater seating was still segregated, but Matteson sat in the middle of the whites-only section.

When an usher ordered her to move to the Hispanic and Indian side, she refused, even after he threatened to call the

sheriff.

"I stood up for my rights then, and I stand up for them now," Matteson said recently. "Nobody's going to push me around."

Matteson, 76, has dedicated her life to fighting for Native American rights. Her brash style and determination have made her a legend among Southern California Indians.

Her outspokenness has spawned nicknames, such as "Dynamite" and "The War Department."

She has made as many ene-

fringe ap. Indian, page A2

Indian

Continued from page A1
mies as friends.

"You can't argue with her. You wouldn't want to argue with her," said Paul Contreras, her long-time opponent on the San Pasqual Indian Reservation, where they both live.

"Mary's tough, no doubt about it," said Cal Baker, vice spokesman of the reservation. "You've got to move to one side when Mary comes through. She's sure persistent."

When students teased her about being an Indian, 'I'd take them outside and beat the holy hell out of them,' Matteson recalls.

Her persistence has paid off. As a former spokeswoman for the San Pasqual Indian Reservation, Matteson helped it obtain numerous Bureau of Indian Affairs grants for tribal administration costs.

After World War II, when the government had a surplus of prefabricated houses it planned to destroy, it was Matteson who successfully secured several homes for the reservation. Some still stand today.

Matteson was also instru-

mental in getting the federal government to settle a long-running lawsuit over the Escondido-to-Vista canal. The government had allowed the two cities to divert precious water from the five area Indian reservations that make up the San Luis Rey Water Authority.

Federal officials agreed last year to pay the Indians \$30 million and to provide 16,000-acre feet of water each year.

Matteson testified on behalf of the water authority several times at congressional hearings in Washington, D.C.

During one two years ago, a congressman wondered aloud why the Indians needed water.

"Are they farmers?" he asked.

At the back of the room, Matteson jumped up and shouted, "Without water ... how can we be farmers? Without water you can't do anything."

Matteson, a descendant of the San Pasqual Indian band, was born in the Orange County town of Placentia in 1912, the youngest of nine children. She grew up in Los Angeles as the neighborhood tomboy.

When students teased her about being an Indian, "I'd take them outside and beat the holy hell out of them," Matteson recalled. "They were all afraid of me. My mother had taught me

'She's one tough broad. A lot of people don't like her. She's traditional and very honest. She so honest she's squeaky clean. She won't cut corners.'

— Robert Banta, a long-time friend.

how to box."

Matteson moved with her husband, Charles, to the San Pasqual reservation northeast of Valley Center in 1951 because land was tax-free and "it was a pretty place at the time."

She was the first descendant of the San Pasqual band to do so. The original band lived in the San Pasqual Valley.

Over the years, she has held the positions of tribal spokeswoman, vice spokeswoman and secretary/treasurer. She also spent several years tutoring students on the reservation.

She has one son, Charles Jr., who lives next door.

Inside her 38-year-old cottage on the reservation, the smell of burned wood permeates the room. Hand-made Indian baskets, tomahawks and pottery line the mantle. Tomahawks lie at the base of the fireplace. All are signs of a tradition Matteson struggles to keep alive.

Yet she hasn't ignored progress. A microwave has become her favorite appliance.

Matteson has little time to worry about cooking and

cleaning. There are causes to fight for, abuses to correct.

To prove it, the 5-foot-tall Matteson scurries through her house in search of some of the hundreds of documents she has collected.

She spews out opinions like machine gun bullets. She changes subjects so quickly, a listener often has to interrupt and ask whether she's talking about the 1920s or last week.

When a problem arises on the San Pasqual reservation, or any other Indian community in Southern California, Matteson launches a personal investigation. If authorities seem slow to respond, Matteson circulates a petition among her friends and sends copies to federal, state and county officials.

"She's one tough broad," said Robert Banta, a long-time friend. "A lot of people don't like her. She's traditional and very honest. She so honest she's squeaky clean. She won't cut corners."

"Mary's interesting and isn't afraid to speak her mind," said George Armstrong, who runs an egg farm across the street

from her home. "But if you get on her wrong side you better watch out."

Matteson spends much of her time now — her opponents say too much — trying to prove that many of the Hispanics living on the reservation have too little Indian blood to belong to the band. The subject has become an obsession. It has caused division and polarized the reservation, her enemies say.

"We want to see things happen up here," said Contreras, a former vice spokesman of the reservation. "But she just keeps bringing up old problems that were solved a long time ago."

"We have more important problems now like drugs and violence. Why can't she talk about what we need to do for the future of our kids, instead of putting people down all the time?"

Contreras added that Matteson's outspokenness has left a bad impression of the reservation on some federal, state and Indian officials.

Indeed, few officials haven't heard about or heard from "Dynamite" Matteson, who has battled government bureaucrats for 46 years.

Matteson directs an equal amount of criticism at her neighbors for allegedly polluting her well water or allowing junk to pile up in their front

yards.

Her comments have fueled long-running feuds.

One neighbor once accused her of pulling a gun on him. A sheriff's deputy confronted Matteson with the allegation.

"I told the sheriff I don't even have a gun," Matteson recalled. "But I said I would get one and if my neighbor ever bothered me again I would shoot him first and ask questions later."

"Me and my big mouth. I just can't keep it shut," she said.

'I told the sheriff I don't even have a gun. But I said I would get one and if my neighbor ever bothered me again I would shoot him first and ask questions later.'

As a visitor leaves her house, the smell of manure from a nearby chicken ranch pervades the air.

"Yeah, it stinks like hell," Matteson said. "I've been thinking about calling the health department. I'll put together a petition to put a stop to that."

"Why not? I'm always in hot water anyway."



PECHANGA INDIAN RESERVATION
Temecula Band of Luiseno Missions Indians

P.O. Box 1477 • Temecula • California • 92360 • (714) 676-2768

Testimony of
 the **TEMECULA BAND OF LUISEÑO INDIANS**

at
 Pechanga Indian Reservation,
 Riverside County: Temecula, California

Spokesperson
 Jennie Miranda
 Council Members
 Diane Arredondo
 Frances Miranda
 Philip Munoz
 Russell Murphy
 Leslie Tinsley
 Darle Whitel

presented before the
 United States Senate Select Committee on Indian Affairs
 and
 the Honorable Daniel K. Inouye, Chairman,

at
 Escondido City Administration Complex
 Escondido, California
 on
 April 27, 1989

Dear Committee Members:

The Temecula Band of Luiseno Indians is requesting that the Committee please hold the record open for inclusion of documents important to making our testimony complete which shall be promptly forthcoming. Despite every effort to include said documents, they could not be obtained in time for today's hearing.

The testimony of the Pechanga Band addresses the four following issues:

- BIA trust responsibilities and protection of our land base;
- Indian water rights and BIA rights protection capabilities;
- Base funding for California Tribes, recognizing their unique, small tribe status; and,
- BIA IIRP priority and funding criteria.

LAND CLAIMS and TRUST RESPONSIBILITY

Our first concern regards the failure of the Bureau of Indian Affairs to protect the land base of the Luiseno People at Pechanga Indian Reservation; and as such, this concern regards the negligence of the BIA in fulfilling its trust responsibilities on behalf of Pechanga Reservation.

Eleven years ago the Pechanga Band filed a civil lawsuit¹ to recover title to property that originally was included in the reservation under an executive order signed by President Chester A. Arthur on June 27, 1882.

In 1978 the Pechanga tribal council first acquired and examined the executive orders and the trust patenting of its reservation and discovered

that a discrepancy existed for which they could not account: additional land had been reserved but not trust patented to the reservation. Upon investigating the discrepancy, the best available evidence indicated that the section in question had contained a homestead claim that had been disallowed by the General Land Office as fraudulent. However, the government had not served the defrauder with the final papers in the case, and at a later date the claimant sold the land, even though he did not have clear title. By 1978 the land had just recently been sold to a large development corporation that had ignored this original cloud on the title. The Pechanga Band brought suit to recover the land. The case was decided, not on the validity of the original title, but on the fact that modern landowners were making decisions based on the belief that they had bought clear title. In other words, the court decided...that different principles would be applied to land stolen from Indian reservations and that such land was not recoverable. The court to this day is still selectively using and applying laws relating to stolen land if Indians are involved.²

The United States was not a party to the litigation. As such, the BIA failed to fulfill its role of its trust responsibility by entering or assisting the Pechanga Band with its litigation. The Band lost the land claim and was denied a hearing of the case by the Supreme Court. The BIA was completely lax in its role of protecting our land base—land that was reserved to be part of the Pechanga Reservation.

The federal government gained a territory in perpetuity over which to govern through treaties and other agreements with Indian nations, with promises to: "...protect the Indians in their reserved territory and other private property....The federal government historically has not lived up to its trust responsibility to fulfill these promises."³

It would seem as if the BIA either does not understand its trust responsibility role or has failed to make it a priority for tribes in Southern California.

It may be too late now to do anything more regarding the property discussed above. However, the Pechanga Band would like to suggest possible legislation for the acquisition of property to compensate for the loss of reserved tribal lands resulting from the BIA neglect of its trust responsibilities.

WATER RIGHTS and RIGHTS PROTECTION

Perhaps the largest external concern impacting Pechanga Reservation physically, as well as threatening the quality of life of its residents is the unbridled growth and development occurring in the Southwest area of Riverside County, wherein the reservation is located. Of vital importance to the Pechanga Band in light of this urbanization is our established Indian water rights; specifically the protection of these rights.

This Band of Luiseño Indians does not have the capacity to endeavor successfully in the protection of its water rights. We have an extremely limited funding allocation, as do most Southern California tribes, and cannot alone procure the necessary scientific and legal resources to protect our water rights and water supply. We therefore have been relying and will continue to rely on BIA resource. This issue bears mentioning as a preventive measure to protecting our water rights relevant to our future. Specifically, the Santa Margarita Water Basin from which this reservation draws its high quality water supply is currently under management of the Rancho California Water District wherein it is felt by the Tribe that the water commodity is being managed to suit the needs of those participants within the water district thereby overlooking the needs and the rights protection of the Pechanga Band.

To date this tribal government has been vehemently opposing proposed development projects that are encroaching the reservation and encompassing the Santa Margarita watershed. We as a reservation are forwarding our opposition based on the mitigation measure that developer address as having no impact on our water resource. Unfortunately we cannot share nor do we accept their mitigation measure as we feel that not only will our water quantity be impacted but most definitely our water quality will.

We call upon this Senate Select Committee to continue with its endeavor to assure that our precious water rights are indeed protected. And that the Bureau of Indian Affairs be given the necessary thrust to assure that they come forth with the obligation so established under which this reservation was formed. Hereto, let it be understood, that this tribal government recognizes that development cannot be halted. But we are more concerned that the proposed development surrounding this reservation can be accomplished without impacting the water resources for our existence today and our future. Much of the argument coming from the developers is simply shifting our water concerns to the water district that will be providing the respective projects their needed water supply (RCWD). However we fear that the proposed development will shift this surrounding area from a rural to an urban environment. In which case it is clearly realized that once this basin makes the transition from zero population to over sixty thousand (60,000) residents, this reservation face water trouble. The trouble will be that our battle then will encounter conflict between this small reservation which has a membership of almost 800 to fight against a residency in excess of sixty thousand (60,000).

We do not want to see this happen. Historically speaking, whenever the cases go before the courts the reservation and Indian plight generally is met with an unfavorable outcome, as in the case aforementioned, *Pechanga v. Kacor, et. al*. Here again, we ask for the assistance of the United States Government, so that this water rights battle need not enter the courts and be

dealt with at the preliminary levels, thereby making it very clear that by the nature of our relationship to the US Government, this reservation has certain inherent protection which was established far and away before the existing water managers of this basin, as well as the county which resides in this basin.

In conclusion to express the sentiment of this reservation I shall inject a statement made by Frank Tenorio which reads:

There has been a lot said about the sacredness of our land, which is our body; and the values of our culture which is our soul; but water is the blood of our tribes, and if its life-giving flow is stopped, or it is polluted, all else will die and the many thousands of years of our communal existence will come to an end.

BIA HIP CRITERIA

There is a concern this reservation feels relevant to the criteria currently being used by the Bureau of Indian Affairs in their effort to establish priority to respective housing applicants. The problem very simply stem from the fact that too much emphasis is given to the demographics of the household to the extent of neglecting the condition of the dwellings.

BASE FUNDING FOR SOUTHERN CALIFORNIA TRIBES

Finally this tribal government wishes to extend a comment of unity and support of the proposed increased based funding amounts for the small tribes of California. They are all to be commended in their establishments and accomplishments as they have been operating on shoe-string budgets. However, with the magnitude of problems confronting each and every tribal government, it is imperative that the appropriations for the small tribes in the state of California be increased to an amount that would enable each tribe to conduct their tribal business both on a professional and tribal basis to ensure that each tribe has the opportunity to be self-determining. To date regrettably this is not the case.

BACKGROUND

The Pechanga Indian Reservation is located approximately 85 miles southeast of Los Angeles, 55 miles north of San Diego and 30 miles due east of the Pacific Ocean—as the crow flies. The Pechanga People are called the Temecula Band of Luiseño Indians but are often referred to as the Pechanga Band. The Pechangas are descendants of the Luiseño tribe who established one of Southern California's largest indigenous settlements—Temeku village,

which was a major site for commerce—and is located near present-day Temecula. The Temeku village site is located at the confluence of the Murrieta, Temecula, and Pechanga Creeks which combine to form the Santa Margarita River, and is located four miles west of the Pechanga Reservation.

¹ *Pechanga Band of Mission Indians v. Kacor Realty, Inc., et al.*, filed in the United States District Court in Los Angeles in November 1978 by the Pechanga Band of Mission Indians (Civ. Action No. 78-44-99-MML-GX [C.D. Calif.] [unreported decision], *aff'd*, 680 F.2d 71 [9th Cir. 1982], *cert. denied*, 103 S. Ct. 817 [1983]).

² Shipek, Florence. *Pushed into the Rocks: Southern California Indian Land Tenure, 1769-1986*. Lincoln, Nebraska: University of Nebraska Press, 1987, p. 102.

³ National Tribal Chairman's Association's response to President Reagan's policy statement in Francis P. Prucha, *The Indians in American Society*, 1985, pp. 100-101.

2932 Lawrence St.
San Diego, Ca. 92106
April 20, 1989

Mr. Richard Carrico
Westec Environmental Services
5510 Morehouse Drive
San Diego, Ca. 92121

Dear Richard.

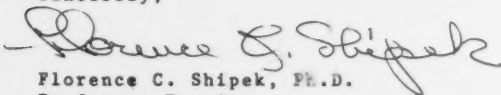
Enclose is a copy of my comments on Moriarty's archaeological report on the San Diego Mission Excavations. In it I detailed much of what I had learned from the old men who had been Mission Valley Band members.

Both described using the cemetery on the east side of the mission as a burial place, or cemetery, for Indians who died in the valley until all were forced out of the valley between 1900 and 1910. They also described using the Presidio Hill cemetery through until that time if the Indian family lived closer to the old Presidio and Mission Bay (edges of the mud flats around the bay almost continually occupied by the local Indians until 1910.) After that period of time, those from inland came and camped both near the mission and around the bay through until the 1930's, but seldom used the cemetery after 1910 because they preferred to take the body back to the reservations or to Jamul. In the 20's, Mrs. Robertson had camped in both places as a child with her grandparents.

Based upon the San Diego Mission records, the people buried at the Mission cemetery during 1774 - 1832 would have included all who died there after baptism there. That is, there would be some San Luis Rey people, some Cupa, some Cocopa, Paipai, and Quechan at the very least, some from further down in Baja California and also Kumeyaay from every band - mountain, desert and coastal.

If I can be of any further help in relation to the need for reburial ceremonies and in contacting the Kumeyaay bands and religious leaders, let me know.

Sincerely,



Florence C. Shippek, Ph.D.
Professor Emeritus

First Costo Professor of American Indian History 1978-88

✓cc:Cliff Trafzer, Native American Heritage Commission.

Mr. Ron Buckley, Secretary
Historic Site Board
202 C Street
San Diego, Ca. 92101

Dear Mr. Buckley:

Enclosed please find my comments on the Mission San Diego Excavation Report. Ron May, County Archaeologist, asked me to review it and sent me a copy knowing that I had intensively interviewed elderly former Nipaguay Band members. So that you may further determine my qualifications to comment on this report, I am enclosing a copy of my curriculum vita.

I am sorry to have taken so long in sending in these comments, but I was in an accident. I hope this is not too late for your purposes.

Sincerely yours,

Florence C. Shipek, Ph.D
Visiting Professor,
Rupert Costo Chair in American Indian History
University of California, Riverside

REVIEW of:

1987 Report prepared by Drs. Moriarty and Brandes and students of the University of San Diego: Excavations and Historical Research on Mission San Diego.

REVIEW prepared by:

Florence C. Shipek, Ph.D.
Professor of Anthropology, University of Wisconsin-Parkside
First Rupert Costo Chair in American Indian History 1987-88
Visiting Professor, University of California, Riverside

This thick 2 volume report which is supposed to cover twenty years of research and excavation at Mission San Diego was obviously not written to describe the research and excavation results but to justify the erection of a large new non-conforming building on the mission grounds. This is one of the poorest, repetitive, incomplete and incorrect reports that I have ever read, of the many San Diego archaeological-ethnohistorical environmental impact reports I have analysed. Many words are badly misused, others mis-spelled, and grammatical errors abound, such that sentences are often nonsense. Also, this report does not include an adequate number of maps and diagrams to determine locations of much of their work.

While environmental impact reporting may have begun several years after the Mission San Diego excavations started, standards for good archaeological excavation techniques, analysis, artifact recording and analysis, and report writing existed at least several decades before this excavation began. Several new additional analysis techniques were developed during those decades but this report does not indicate use of any of the new techniques, nor does it adhere to the long established standards of good archaeological reporting, nor good historic document analysis.

Because, according to this report, their original aim was both more accurate knowledge and historic reconstruction, I see this new proposed building as a total change of intent which ignores the historic integrity of the mission and the historic and ethnographic record of mission history and cemetery location.

More than 50 percent of the wordiness could be removed with no loss of information about the mission excavation. Furthermore instead of reporting excavation details and results, the report is overloaded with repetitive descriptions of extraneous details about teaching methods, publicity methods, and extravagant praise for Dr. Moriarty who is supposed to be a senior author of the report. Dr. Moriarty is described as a senior archaeologist. As a result of reading this report, I am forced to ask the question, are his advanced degrees in archaeology and anthropology.

1. For example, the report states that the modern Diegueno Indians do not know their own culture or history (p.44). Having interviewed many elders since 1954, I find such a statement totally false. The

data I have acquired from the elders has been used successfully in several court cases. The report ignores the fact that these people reject the name applied by the missionaries (p. 45 vol.2) and instead desire that their own name for their nation be returned to them. They now call themselves "Kumeyaay", their own name for their nation (which can also be found in the San Diego Mission Annual Reports and many soldiers exploration journals). Then the Kumeyaay cultural description from p. 44 through p. 47 is incorrect. The date of the founding of the reservation system is incorrect (p.47); it was not 1860, but in 1875 by Executive Order and finally 1891 by congressional action. The names of the reservation are only partially correct.

On page 50 they mention the San Luis Rey Valley as the source of some mission lumber. It was not. The annual reports mention the "Valle de San Luis" which was actually the Lakeside-Santee valley which any careful reading of the Spanish records would have demonstrated.

However, on page 38 of the larger volume, the writers had acknowledged that a Kumeyaay Indian, Fernando Quaha, erected a thatched Kumeyaay house on Mission grounds at the request of Monsignor Booth. However, the authors ignored the fact that Fernando was a Mission Valley Band (or Nipaguay Band) Kumeyaay who had been born about 1890, near the Mission and left for Baja California in 1910 in order to continue living in the old Indian manner. His family had been among the specialist class in Kumeyaay society and he had been taught much of their culture by his grandparents. He was an expert on Kumeyaay land use practices and pointed out the site of the pre-mission cremation grounds which were on the hill behind the mission and had already been bulldozed away in 1964. He also gave me the sib names of families that had formerly been members of the Nipaguay and Cosoy (Presidio) bands. These were names that had not been recorded by Kroeber or other early anthropologists. Later, in studying San Diego Mission baptismal records, I found those names in the pre-1780 records. Furthermore Fernando could neither read nor write Spanish, nor had he ever seen the mission record books.

Fernando pointed out the Mission Indian neophyte burial area as being on the east side of the mission grounds, just as indicated on the old map. He stated that the Indians used this cemetery until he left the valley in 1910. His information was confirmed separately by Ortiz Quaha, his elderly uncle, who was about 16 or 17 years old when Fr. Ubach came to San Diego in 1869 and Ubach reinstituted baptism of the Nipaguay and Cosoy bands of Kumeyaay Indians who still lived scattered near the mission and below Old Town.

Both also stated that at first the mission was beside the original Kumeyaay village but later expanded over land which had formerly held Indian houses. I do not find evidence of testing to determine the existence of cultural remains below any part of the mission pavements. On page 123 v.2, the authors state that they put test pits into the original Kumeyaay village of Nipaguay, however, they did not define how they determined the original village site.

I interviewed these men separately and constantly tested their memory and identification of buildings and areas and found their memories to be extremely accurate in all details. And where records existed that they had no access to, I found their memories to be accurate. And their identification of the major neophyte burial ground certainly corroborates the existing maps which place the burial ground in that location. The little inner cemetery (p.184 v.2) is too small to contain all the Indian who died and were buried at the mission based upon the mission death register. Whereas their identification of the other area as the one reported to them by their parents and grandparents and used by Kumeyaay after the close of the Mission.

At several places this report mentions that the Kumeyaay either buried their cremation urns or "hid them in cracks in rocks". The first is correct, the cremation urns were buried, generally at the edges of the cremation grounds. But they were not hidden in cracks in the rocks. Instead pots of seeds and dried food were stored in such hiding places.

2. The report's list of excavated artifacts shows a complete lack of consistent or orderly identification and classification of materials. For example the words "ceramic" and "pottery" are identical in meaning, totally interchangeable, and the most general term possible for this class of material. The classification should have been porcelain, stoneware, majolica, glazed European, English or Spanish pottery, Indian pottery or Tizon brown ware. Tizon is a generalized term for pottery made by a number of Colorado Indian tribes as well as by the Kumeyaay. Sometimes it can be further separated into desert or mountain wares. Next, the majority of pieces could have been further separated into bowls and jars and occasionally into plates. It is also possible to determine that some of the other artifacts are misidentified.

3. Their description of the few Indian burials they claim they found (in an undisclosed location) I find inadequate. To describe the skeletal remains as merely stains in that soil indicates inadequate excavation techniques to me. Compare the description of the Presidio cemetery remains (ms thesis at San Diego State University) with this. At the Presidio, the cemetery was for many decades under lawn which was constantly watered and fertilized. The constant watering and fertilizing process cause greater bone disintegration than would exist in any San Diego soils under normal conditions such as existed around the mission except within the small quadrangle garden or a few of the modern watered areas close to the nun's building.

4. The history portion also contains many errors and lack of detailed analysis of existing documents. For example, page 4 (vol.1) descendants of Indians who carried the beams to build the mission reported that their grandparents told of being forced by the soldiers and of being whipped to force them to carry the logs. Women were reported as forced to make and carry adobes for the buildings. The labor was not done willingly nor from "love" but from fear and punishment.

The description of the 1795 period on, in relation to farming, mission aqueduct building, and baptismal efforts ignores the actual baptism records which indicate that the missionaries moved their primary conversion and farming activities into the inland valleys of El Cajon (called Santa Monica by the Spanish) and Lakeside-Santee (Valle de San Luis). The 1791-1792-1793 agricultural reports (planted and harvested) indicate the first successful irrigation. However 1794-1795 reports indicate total failure or lack of irrigation. The baptismal reports then indicate the move into the next valleys inland which had access to better water supplies than Mission Valley. The 1827 report indicates that the only aqueduct led into El Cajon Valley from the mountains.

On page 144 v.2, the report indicates the the missionaries had problems feeding increasing numbers of "dependent people", meaning the Kumeyaay whom had been forcibly baptized and who were forced to labor for the Spanish and whose lands had been stolen for use by the missions and presidio.

The report (p. 52 vol 2 and elsewhere) ignores the mission death and birth (included in baptismal) records which indicates that under mission conditions there occurred extraordinarily high death rates, drastically dropping birth rates, and an unusual drop in the number of women. Next later U.S. federal censuses indicate that during the Mexican period and freedom from the missions, the Southern California Indian population grew extraordinarily, with a high birth rate and the number of girls and women in the societies returned to parity with the men. Sherbourne F. Cook (U. California Ibero-Americana Series) examined the overall mission records and discovered these effects at all mission. Next I have presented the analysis of the San Diego Mission and San Luis Rey Mission records and the later federal censuses in several published reports (one of which is the Cabrillo History Festival Volume, 1986). Any attempt to deny the high death and low birth rates ignores detailed historic records for the missions and later periods.

